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SCOTLAND AS IT WAS AND AS IT IS.



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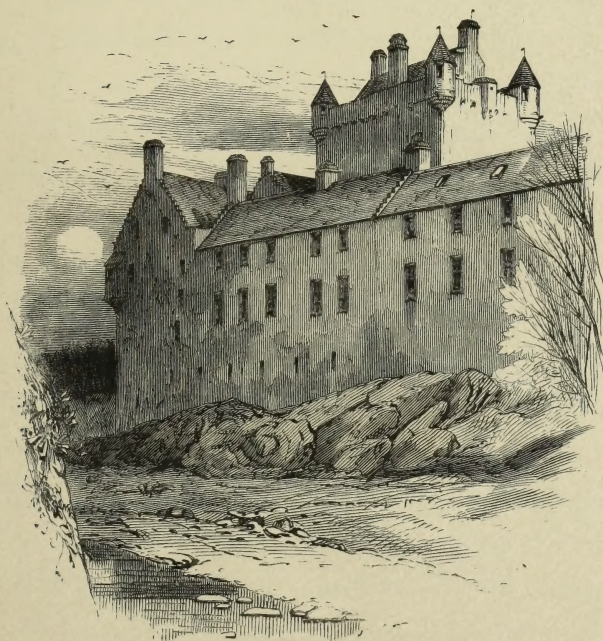
*Argyll, George Douglas Campbell,  
8<sup>th</sup> duke of, 1823-1900.*

# SCOTLAND

AS IT WAS AND AS IT IS

BY THE  
DUKE OF ARGYLL

SECOND EDITION



CAWDORE CASTLE.

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## PREFACE.

HISTORY has now taken its place among the Sciences which must be studied on the principle, and according to the methods, of the Division of Labour. Its larger outlines have indeed been traced already, and some of them, at least, by master hands. But our growing knowledge has raised a growing sense of the volume that we have yet to learn. The problems of human life are felt to be infinitely complex, and the facts which throw real light upon them, are seen to be of a corresponding character. No one mind can recognise, or record, or classify, more than a fraction of them. Mere outlines, even when not positively misleading, are at the least wholly insufficient. It is the work of our time to fill up such outlines by the careful study of particular epochs,—of some particular class of facts,—or of some special chain of causes. The field is a wide one, and the harvest is immense. Many who have neither the leisure, nor the learning, to take up the task of the general Historian, may have excellent opportunities of knowing thoroughly doings and transactions which have a deep root and a wide significance. With no other qualification

than an eye habituated to the perception of certain truths, such writers may render invaluable service. And if their own business or calling has been of a kind which is connected with the earliest times, and with the oldest elements in human civilisation, any careful analysis of that business, as it has been conducted in the past, and as it exists at the present time, cannot fail to be, at least, a useful contribution to the vast—the yet unaccomplished—work of History.

In the following pages I have desired to offer such a contribution—and nothing more. They deal with one great group of causes in our national progress, and they deal with that group alone. Other causes are either not touched at all, or they are alluded to only by the way. Nothing, for example, has been more peculiar in Scotland than the direction which the Reformation took. Few causes have affected so powerfully the national character ever since 1560. But except as connected with the Civil Wars, and some consequent movements of the population, I have left it out of the account.<sup>1</sup> In like manner the immense influences of Literature and Science are passed by, except in so far as both are connected with the progress of the Arts, and of Mechanical Invention. Nevertheless, the special current of events, and the special group of causes

<sup>1</sup> Thirty years ago I dealt with this subject in another work, *Presbytery Examined*.



which have been followed here, are, beyond all question, among the deepest and most powerful in the History of Civilisation. They concern the amalgamation of Races, the consolidation of a National Government, the beginnings of Law, the rise of Industries, the origin, the growth, and the working of these accepted doctrines of Society which consecrate and establish the respective rights, and the mutual obligations, of Men.

I need not apologise for the use I have made of Family Papers. The value of such documents has long been universally recognised as among the best materials of History. Several Literary Clubs did much, in the earlier part of this century, to render them more accessible. Increasing interest is everywhere being taken in them. The sumptuous volumes of Family History published under the care, and edited with all the learning, of Sir William Fraser, K.C.B., LL.D., Deputy-Keeper of the Records of Scotland, are a mine of information on the habits and manners of the Military Ages. Yet, unfortunately, few families have taken care to preserve documents giving any details of Estate management. The *Black Book of Taymouth*—often referred to in the following pages—has a special value in this point of view. For the most part, each generation worked, in these matters, unconsciously—not knowing, or even dreaming that in the ordinary administration of Property, they were making

History, in one of the most important of its branches. It so happens that documents of this kind, relating to critical epochs, have been preserved in unusual abundance by some of my predecessors. Yet one of the most interesting of these—the Report of Duncan Forbes of Culloden in 1737—was very nearly lost. It was found among the papers of Lady Mary Coke, youngest daughter of John (second) Duke of Argyll and Greenwich, and was returned to me by the kindness of the present Earl of Home, into whose possession it had passed. Old Leases seem everywhere to have been very generally destroyed. Yet it is needless to say that they are very important documents, not only in the History of Tenures, but also in tracing the advancing practices of Husbandry. Of these I am fortunate in having a tolerably complete series from the beginning of the Eighteenth Century, as well as whole Volumes of Instructions in all the details of administering Estates much larger than those which I now possess, issued by my grandfather, John, fifth Duke of Argyll, during the most critical epoch of Agriculture in Scotland, from 1770 to 1806. He was one of the great Improvers of his time; and I have had the further advantage of the large collection which he has left of Books and Pamphlets on all branches of Rural Economy. My only difficulty has been to limit within any reasonable compass

the superabundant evidence which all these sources of information afford in illustration of the narrative I have presented of a memorable History.

The Woodcuts in this Work have been taken from drawings of my own which pretend to no artistic merit, but which, from having been made chiefly for geological purposes, are scrupulously accurate as regards the outlines, surfaces, and structure, of the mountains. In such scenes as those connected with the view of, and from, Iona, I have always felt it a great pleasure to remember that although all superficial objects, such as buildings, trees, etc., are of comparatively recent date, yet the aspect of the Hills is almost unchanged, and the contours of Sea and Land are exactly as they were when the great Missionary of the early Celtic Church landed on our shores in the Sixth Century. In like manner the scene of Robert Bruce's encounter with the Macdougals, Lords of Lorne, at the foot of Ben Cruachan, is in all probability almost exactly what it was at that time. The drawings of the Mountains of Soulvein, and of Queenaig, in Sutherland, exhibit some of the most remarkable hill-forms in Scotland. These mountains are also of great interest in Geology, consisting almost entirely of the red "Cambrian Sandstone," out of which their precipitous outlines have been cut or broken, by some series of movements, and of other operations, which Science has much difficulty in explaining.



The lower hills and rocks from which these curious mountains rise, are all of a totally different material, and of a much earlier period in time. I may add that in the view of Queenaig, the summit at the right-hand extremity of the Range, is the same summit which is depicted, from a different point of sight, in the Frontispiece of the later editions of Murchison's celebrated and classical Geological Work, *Siluria*.

The view on page 484 represents the situation of a cottage which was the home of "Rob Roy" during many years, and in which his children were born. It is between two deep ravines, easily defended. Very lately the handle of his "Skian Dubh," or stocking knife, was found imbedded in the turf, near the walls. It is made of a sheep's horn, and bears, roughly cut upon it, the letters "R. M<sup>c</sup>G."

ARGYLL.

INVERARAY, Jan. 1887.

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## CHAPTER I.

### CELTIC FEUDALISM.

THE full and fast river of our time has many curious eddies in its course, and none are more curious than those which carry the looks and the longings of men back to primitive conditions of society. Such longings are, moreover, always accompanied by the most strange assumptions as to what primitive conditions really were. The causes of this tendency are clear enough. The Battle of Life is sore on many, and it is only natural that they should envy a time when, as they imagine, there was no such battle, or when victory was equally easy to all the combatants. Yet nothing can be more certain than there never has been such a time since the gates of Eden closed. Of the condition of Man in the days which were really primeval we are absolutely ignorant. But as we see him in the light of the very earliest traditions, we see him, as he is now, a Being bound to labour with hand and brain, and a Being fitted for both these kinds of labour, with great varieties of faculty in each, and with deep-seated inequalities of power. In the very earliest narratives and traditions of the Jews we see men already divided into tillers of the ground and into keepers of herds and flocks. Both of these established avocations pre-suppose a long course of effort, and of all the needs under which effort is evoked. Moreover, when individual Personalities are dimly seen, we see them divided, as they are

divided now, not only according to inequalities of mental aptitude, but according to inequalities, cutting deeper still, between the good and the bad, between the virtuous and the vicious. Moral qualities, even more than intellectual gifts, have in all ages been the great secret of individual success. From the first the sacrifices of some men have been rejected, because of "sin lying at the door." And when real History begins it is always the figures of Great Men that first appear upon the stage. They are the centre of every group. They are the reason and the cause of every movement. The personal qualities which had secured to Abraham his great pastoral wealth in Ur of the Chaldees, were, we may be sure, the same qualities on account of which the exclusive possession of a whole country was promised to him and to his children. That was the earliest Land Charter of which we have any knowledge. But it was a Charter which could not be, and was not fulfilled, except by battle. Without the sword of Joshua, neither the faith of Abraham nor the lawgiving of Moses would have placed the chosen People in possession of the Promised Land.

And so it has been ever since. In all the early movements of Mankind the great qualities of individual men have been the cause of every success, the foundation of all authority, and the indispensable condition of all secure enjoyment. With the single exception of the glimpse presented to us of the condition of Palestine between the arrival of the great Patriarch at Mamre, and the migration of his children into Egypt, we have no knowledge of any ancient people who were able to occupy a land so comparatively empty that they could live in it without fighting. The beautiful story of the parting of Abraham and of Lot<sup>1</sup> is the earliest account we have of a dispute about the possession of land, and contains within itself almost the whole philo-

<sup>1</sup> Gen. xiii. 5-9.



sophy of the dispersion of Mankind. But it was a case of dispersion under conditions which were not and could not be lasting—conditions, namely, under which vast tracts of country were as yet unappropriated. Even then, strange to say, we are told that there were many native Tribes already established in the land, and that famines were occasionally sore among them. It can only have been an occupation on sufferance that was then enjoyed by the Hebrew brethren when they had as yet nothing of their own—“no, not so much as to set their foot on.” This is clearly expressed in the speech of Abimelech to the Patriarch: “Behold, my land is before thee, dwell where it pleaseth thee.”<sup>1</sup> The assertion of an exclusive right of possession is here distinct, as well as the right of granting a permissive occupation to the Hebrews.

But this was not “possessing the land,” as they hoped to possess it, and as the promise was that they should possess it. Exclusive ownership was the promise, and with that exclusive ownership in the hands of strangers there could be no security for the chosen People. God, indeed, had made that land of Canaan in the same sense in which He has made “all the corners of the earth.” But He had not made it for all men, but for that particular family of men whom He made strong to take it, and who continued to hold it—until by unfaith they lost it, and its sceptre departed from them. No other conquering Tribe, indeed, has ever been charged with the same mission, or has brought the same gifts to men. But it may be said with truth that, generally speaking, every conquering Tribe has had some mission, and has added something above its fellows, and above its enemies, to the progress of the world. And although we know little—curiously little—of those great migrations westward from Central Asia, which, during several centuries, covered the ground of Europe with fresh and ever

<sup>1</sup> Gen. xx. 15.

fresher deposits of human character, this at least we do know, that they were always movements of fighting men, continually reducing to bondage those whom they overcame, and themselves passing under service to the Leaders whom inborn inequalities of mind had raised to positions of command.

The famous and powerful sketch which has been left by Tacitus of the German Tribes, as they were known by him, does indeed present a picture of social equality, in which personal pre-eminence found only a personal and temporary recognition. And, no doubt, so long as they remained in their own woods and marshes, fighting with none but inferior races, living only on cattle and on the chase, neither having nor desiring a settled life with peaceful and agricultural pursuits, the Polity described by Tacitus might be strong enough. But we know what followed. Even in his description we see that the hereditary principle had begun to work. Mere youths were admitted to the dignity of Chiefs if their fathers had been illustrious.<sup>1</sup> Nothing more was needed. A root which is deeply rooted in human nature had begun to sprout. During the dim centuries when the Barbarian nations were gathering behind the forests of Germany and the marshes of the Danube, coming, as Tacitus ignorantly supposed that no migratory nations could come—not by sea, but overland from distant centres of origin and overflow—during those dim centuries the Germans and all the swarms above them to the North, and behind them to the East, were closing their ranks, and consolidating their strength under that one great Polity which by its inherent strength survived every other,—the Polity of military subordination, and of Power regulated and transmitted through hereditary succession.

There is no greater mistake than to suppose

<sup>1</sup> *Insignis nobilitas aut magna patrum merita, principio dignationem etiam adolescentulis adsignant.*—(Tacit., *Germ.*, c. 13.)

that this Polity, which culminated in the code of law and usages since grouped under the name of the Feudal System, was founded on any unnatural usurpation, or that the authority which came to be vested under it in Chiefs and Kings, was anything more than an embodiment of the facts of Nature, and an expression of the insuperable necessities of the case. Under such conditions of fierce competition, determined always by the arbitrament of arms—conditions of perpetual and chronic war—it was not possible that success could be attained, or civilisation could be established, except by resting upon those through whom, and by whom, Power could be wielded best. Thus, for example, the feudal principle that every holder of land must hold it under tenure from some Superior in whom the dominion lay—this principle did not grow out of any theory, but was the simple recognition of the facts of life. It had come to be true as one of the necessities of the age, long before it was formally recognised as one of the doctrines of the law. There is no value in land except when it can be held in peace. But in times when there was a universal scramble for the possession of it by rival Tribes, it never could be held in peace except under the protection of those who were strong enough to defend it. And no man could have this strength except by leaning on the existing organisation of society, and on the personal authority of those who were at its head. Nor is there any truth in the idea which has been sedulously spread that those among northern races—the Celts—who were the last to accept the Feudal System in its final form, were races who lost by that acceptance any individual freedom or any social equality which they had enjoyed before. The truth is all the other way. Amongst the Celtic Tribes the same general causes had not only established the same dependence of the body of the people on the authority of Kings and Chiefs, but had made this dependence much



more arbitrary and oppressive than amongst the Saxon and other Teutonic Tribes, or under the perfected forms of Feudalism.

The usages which spring up in a rude condition of society are subject to development, like other things, in two very different directions. When the conditions are favourable to the establishment of a settled government and of an advancing civilisation, these usages become more and more subject to reason and to judicial definition ; whatever elements there were in them of mere despotism and injustice are dropped out or softened down ; and finally, all the elements which remain become built up into a well-ordered system of Government and of Law. When, on the contrary, the conditions of society are not favourable—among Tribes which are never destined to grow into great Nations—such usages become subject to a development very different indeed. It is the development of corruption. The grosser elements assert themselves more and more ; they become not only stereotyped, but enlarged and strengthened. What began in mere violence becomes still more violent, what was always undefined becomes more and more purely arbitrary. What was due originally to natural power and to just authority becomes yielded up to the purest tyranny—until the whole system may grow into one of chronic rapine fatal to any progress in wealth, or in government, or in law.

Of all these processes there never has been a more conspicuous example than in the customs and usages of that branch of the Celtic race which, pushing farthest west, possessed itself of Ireland. There—in that remotest region of Europe—it became secluded from the movements and the life of the continental world. It may be true that in the Brehon Laws we have traces and relics of a time when Celtic usages and ideas were the same as those of all their Aryan brethren—and which in the hands of one great nation led on to the glorious history of the

Twelve Tables.<sup>1</sup> But all the germs of good had been well-nigh wholly killed, and the absence of any central authority had allowed every weed to grow. The elaborate, learned, and conscientious Work of Mr. Skene,<sup>2</sup> gives us probably as much as we shall ever know of the earliest organisation of society—if organisation it can be called—among the Scoto-Irish Celts. It began with all the elements of inequality which we find at the foundations of every society. In the first place, it began with the conquest of some so-called aboriginal race which was reduced to bondage. In the second place, it began in the leadership of Chiefs, who from the first seem to have enjoyed greater ascendancy than among the Teutonic Tribes. In the third place, among the men who were nominally equal in respect to freedom, there was a very early development of those differences in wealth which spring directly from the ineradicable distinctions of personal gifts. We are accustomed to think of the word “capital” as denoting a form or condition of wealth which belongs to later stages of human society. But this is a complete mistake. Both the word and the thing come down to us from archaic times. When flocks and herds were almost the only embodiments of wealth, all the power which riches can ever give was vested in the man who by strength or skill had become possessed of more sheep and oxen than his neighbours. When tillage hardly existed, and when land had all its value from the cattle it would feed, no man could possess land except by having stock to eat its grass. These were the “capital”—the Heads or Capita—which alone constituted wealth, and he who had none of these could only hire them from the stronger and the abler men who had them. Then, as money was hardly known, the hire must consist mainly in services of some kind in addition to some

<sup>1</sup> Maine's *Early History of Institutions*, p. 19.

<sup>2</sup> *Celtic Scotland*, vol. iii. c. iv.

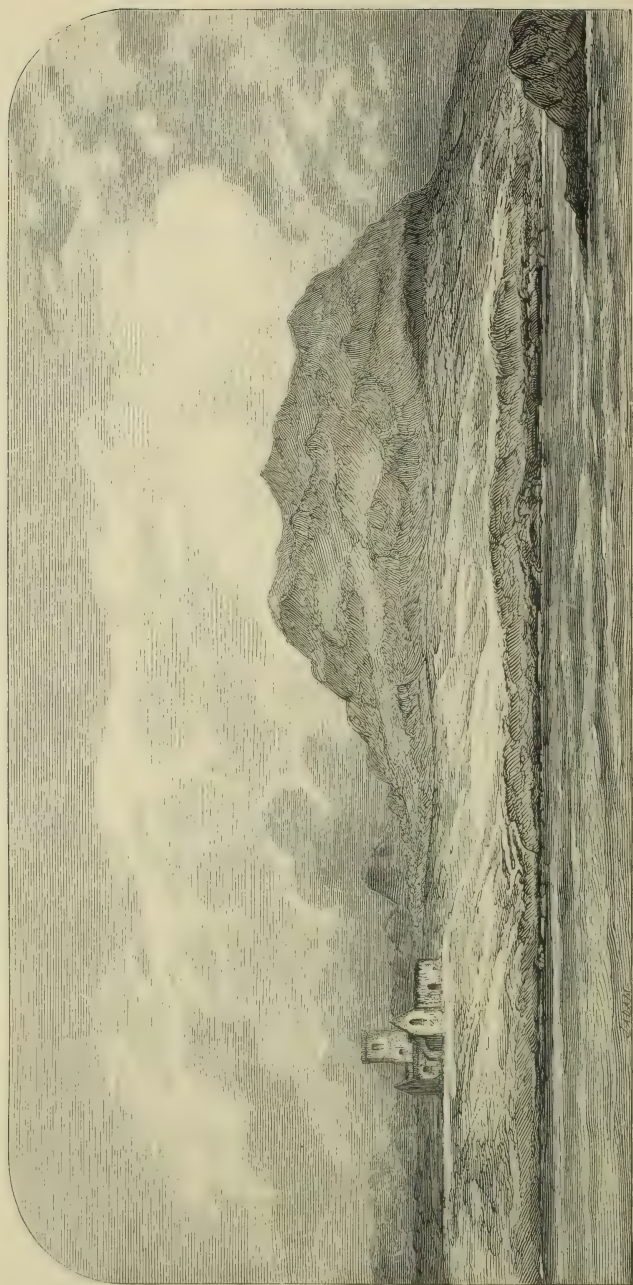
share of produce. This, therefore, was another door, besides Tribal allegiance or military subordination, through which the ranks of Bondsmen were recruited, and the authority of Chiefs became more and more firmly established. It is not a little remarkable that the earliest title in Celtic society which practically corresponds to the modern idea of "landlord" was a word signifying "cattle-lord." This was the Bo-aire—the Cow-lord. It was by paying service to him that poorer men could alone secure the enjoyment of that which was then the prime necessity of life.<sup>1</sup>

Nor was this direct form of hire the only form in which the weaker members of a Tribe came to owe and to render service to its Chiefs. When wars of conquest ceased, intertribal wars began. These were continual and fierce. The earliest records of Irish Celtic society show it to have been a society torn by continual contests in which every victory was followed by plunder and devastation. The one great necessity, therefore, of even the beginnings of peaceful and agricultural life was the necessity of protection. And this protection could only be secured from those who wielded the authority of arms. To get this protection service would be rendered as its price. And besides the services rendered always, even in the intervals of peace, special and extraordinary services would be willingly rendered in times of actual danger, or under any circumstances demanding the special action of the Chiefs. Thus on a multitude of occasions, and under a great variety of circumstances, customs and usages would establish a corresponding variety of dues and of services from the ordinary members of the Tribe towards those who ruled it and defended it. No less than seven different causes have been enumerated on account of which free

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. pp. 143, 144. Curiously enough, "Booer" is the word now used in the West of Scotland for the man to whom farmers let their dairy cows by contract, and who sells the produce.







THE CATHEDRAL, AND POSITION OF THE OLD MONASTIC SITES ON IONA.

men willingly came under terms of servitude to Chiefs. And then when servitude had once been accepted, it became permanent. Bondage was even more hereditary than freedom. Then, again, as the earliest Tribal organisation broke up into the later organisation of Septs or Clans, every step of the change involved some increase to the natural and necessary pre-eminence of those who led. Their power of inviting and accepting the adoption and amalgamation of "broken men" from other Tribes—men who necessarily became direct dependants on themselves—was a power which, in being necessary to the growth and to the strength of the Clan as a whole, was at the same time specially conducive to the concentration of that power in the hands of its Chief.

During more than 600 years from the time when Tacitus described the German Tribes, these changes were working themselves out among the Celts in the profound obscurity of Ireland. The first distinct glimpse we have of them is in the strange way in which they affected even the organisation of the early Christian Church, which to a very large extent was shaped in Ireland after the habits and ideas of the Celtic Tribes and Septs. Its great Monastic Institutions were essentially Tribal. The Abbots were rulers in virtue of their birth, after the manner of succession which prevailed among their Chiefs and Kings. But Christianity supplied rules and imposed restraints to which there was nothing comparable outside the Church. There is a horrible but picturesque story of the end of the Seventh Century, which illustrates both how this influence was used, and the utter barbarism of the people which called for its interference. The celebrated Monastery of Iona was, as is well known, a colony of the Scoto-Irish Church, founded by Columba in the Sixth Century. One of his successors was Adamnan, who was Abbot of Iona about one hundred years later, and died in 704. The



mother of this Abbot, living in Ireland, is said to have been greatly shocked by seeing a battle in which women were engaged on both sides, and especially by the sight of one woman transfixing her opponent, also a woman, through the breast with a reaping-hook. Urged by his mother, Adamnan undertook a journey to Ireland in order that he might obtain from an Assembly of Chiefs and Abbots an abolition of such practices. This he succeeded in doing. But it appears that the existence of fighting women had arisen from the native Celtic usages of a Tribal Feudalism. Even if this story be legendary in some of its details, it is at least a genuine Irish legend. The *Celtic Book of Lecan* fortifies its tale by this emphatic parenthesis—"for men and women went equally to battle at that time." The Tribal obligation of "Hosting" included women. It seems to have been regularly exacted among the Scoto-Irish Celts, and the reform which the Christian Abbot succeeded in obtaining was simply the exemption of women from a custom which must have had most savage and demoralising effects. The name given in Irish annals to this reform marks its extraneous origin—which was no other than that one abounding fountain from which so much has flowed that we value most—the high instincts of the Latin Church seeking their expression in the noble forms of Roman Law. Thus the new exemption of women was called the "Lex Innocentium."<sup>1</sup>

But the Irish Church was at this time too Tribal in its own constitution to enable it to be an effective leader in further secular reforms, and so the old Irish Celtic customs respecting land, in contact with no higher civilisation, became more and more arbitrary and oppressive, and culminated in a system of tenure, of dues and of exactions, which was the most barbarous in the world. They were indeed utterly incompatible with any progress

<sup>1</sup> Reeves' *Adamnan*, ed. 1854, p. 179; and *Celtic Scotland*, vol. ii. p. 173.

in the arts of peace. And all this was of purely native and purely Celtic growth. There is no clearer misrepresentation of history than to pretend that the miseries of the Irish people in respect to the tenure of their land were due to the English conquest, or to the introduction at that time of foreign laws overriding the native liberties and customs of the country. They were due, on the contrary, to the refusal of the English invaders to impart to the people they conquered the benefit of the higher and better laws which had been built up in England under legal modifications and interpretations of the Feudal System. It was the great shame of England and the great curse of Ireland that for many centuries the benefits of English law were rigidly confined to a few districts of the country; that beyond those districts the native laws were considered good enough for the people, and that even the English settlers were often eager to adopt the barbarous customs which liberated them from the restraints of law, and left them free to turn the arbitrary character of native usages to their own account. "*Hibernicis ipsis Hiberniores*" was the boast of some of the Anglo-Norman settlers; and if this meant, as in some cases it did, that they conceived a warm sympathy and affection for the Irish people, it was a worthy boast. But if it meant, as in fact it did really mean in a great majority of cases, that strangers who had known and enjoyed in their own country a higher code of laws, nevertheless gave up these laws when they landed in Ireland, and adopted, and even aggravated, all that was rude and uncivilised in native customs—then it hid, under a plausible phrase, one of the greatest evils which afflicted Ireland, and one of the greatest derelictions of duty with which the English settlers can be charged.

This is all the more curious, since we have the most certain historical evidence that long before the Anglo-Norman invasion of Ireland the native

Feudalism of the Celts had at least begun the same course of legal development which became the strength of England and of Scotland. There are extant some four or five genuine old Celtic Charters of land, written in the Irish language, connected with the property of the famous Monastic establishment of Kells in county Meath. These documents are of the highest interest and importance, because of the evidence they afford, from a purely native source, touching a subject on which English testimony might be suspected of prejudice. One of them is specially remarkable on account of the fact that in conveying an exemption from the arbitrary dues and customs which were everywhere levied by the Chiefs, under the Celtic Feudalism, it supplies us with at least a partial enumeration of these exactions. It sets forth that in atonement for a great crime a certain Chief grants to the Monks of Cill Delga "the territory and lands" of that name, with this privilege or exemption, that "no King or Chieftain should have rent, tribute, coigny, or any other claim upon it as before." This Charter was given about A.D. 1050<sup>1</sup>—or sixteen years before William the Conqueror invaded England, and more than 120 years before Henry II. invaded Ireland. It indicates very clearly that the worst oppressions of Feudalism had been long established among the Celts. Incidentally these old Celtic Charters prove that land had become commonly possessed by individuals, and was bought and sold for definite sums in gold. One of these purchases must have been extensive, for it is described as including "meadows and bogs." The price was 30 ounces of gold, a considerable sum in those days; and lest any doubt should be cast on the validity of the tenure, it is further specified that the man who sold it had held it as "his own lawful land."<sup>2</sup> It would almost seem that

<sup>1</sup> *National Manuscripts of Ireland*, Part ii. Introd., p. 45.

<sup>2</sup> *Ibid.* No. LIX.



the Anglo-Norman invasion had thrown things back in Ireland by the mere force of antagonism and opposition between the races. Certain it is that the exemption of lands by Charter from arbitrary feudal exactions, which Ecclesiastics took care to secure even from the native Celtic Kings and Chiefs, was not enjoyed by the bulk of the people.

The truth is, that nothing was or could be enjoyed by the bulk of the people under the desperate corruption of their native Chiefs. As regards the condition of the poorer classes no change could possibly be a change for the worse to them. They were equally the victims of most oppressive usages in times of peace, and of the most barbarous ferocity in time of war. It must always be remembered that the first foreign invasion came at the express invitation of one of the Irish Celtic Chiefs—Dermot, King of Leinster—and that this invitation was addressed to Welshmen, another branch of the same Celtic stock. It must be remembered, too, that in the contests which followed, this same Dermot exhibited an almost incredible barbarity towards those of his own countrymen to whom he had been opposed. It is not a Protestant but a Catholic historian who gives us the most terrible account of the conduct of this native Irish Chief. We are told that when the men of Ossory had been borne to the ground by a charge of the English cavalry, “the fallen were immediately despatched by the natives under the banner of Dermot. A trophy of two hundred heads was erected at the feet of that Savage, who testified his joy by clapping his hands, leaping in the air, and pouring out thanksgiving to the Almighty. As he turned over the heap he discovered the head of a former enemy. His hatred was rekindled at the sight, and seizing it by the ears in a paroxysm of fury, he tore off the nose with his teeth.”<sup>1</sup>

<sup>1</sup> Lingard, ed. 1883, vol. ii. p. 180.



In the most interesting and instructive *Historical Tracts* of Sir John Davies, who was Attorney-General and Speaker of the Irish House of Commons in the reign of James I., we find conclusive evidence of the barbarous and oppressive nature of the old Celtic customs, and of the desire of the people to escape from them. Whenever they had the knowledge requisite to enable them to understand the difference, "they were humble suitors to have the benefit and protection of the English Laws."<sup>1</sup> The most valuable clause in an Irish Charter from the Crown was always that which promised to the holder that he should be "ab omni servitute Hibernicâ liber et quietus." It was through the use of purely native and old Celtic customs that the great Anglo-Irish Chiefs exercised their greatest oppression. "The English lords," says Davies, "finding the Irish exactions to be more profitable than the English rents and services, and loving the Irish tyranny, which was tied to no rules of law or honour, better than a just and lawful superiority, did reject and cast off the English law and government, received the Irish laws and customs, took Irish surnames, etc. etc."<sup>2</sup> Nor does Davies speak without a definite meaning in all this denunciation of the old Celtic customs. He had too vivid a picture before him of the results of these customs to be deceived by words which have a popular sound, and by usages which look as if they had a popular origin and effect. He saw around him the inevitable effects of so-called Tribal rights in the Ownership of the soil. He knew that the individual appropriation of land was the first step from barbarism to civilisation, from widespread waste to cultivation and adequate production. He, therefore, specially denounces those usages which made the improvement of land difficult or impossible—usages which were not unsuitable to a primitive and semi-barbarous condition, but were also specially

<sup>1</sup> Davies's *Tracts*, p. 89.

<sup>2</sup> *Ibid.* p. 116.

suited to keep men down to that level and to prevent them from ever emerging from it. He had before him their ruinous effects :—

“Again,” he says, “in England, and all well-ordered commonwealths, men have certain estates in their lands and possessions, and their inheritances descend from father to son, which doth give them encouragement to plant and build and to improve their lands, and to make them better for their posterities. But by the Irish custom of Tanistry, the chieftains of every country, and the chief of every Sept, had no longer estate than for life in their chiefries, the inheritance whereof did rest in no man. And these chiefries, though they had some portions of land allotted unto them, did consist chiefly in ‘cuttings’ and ‘cosheries,’ and other Irish exactions whereby they did spoil and impoverish the people at their pleasure. And when their chieftains were dead, their sons or next heirs did not succeed them, but their Tanistres, who were elective, and purchased their election by strong hand; and by the Irish custom of gavelkind, the inferior tenantries were partable amongst all the males of the Sept, both bastards and legitimate, and after partition made, if any one of the Sept had died, his portion was not divided amongst his sons, but the chief of the Sept made a new partition of all the lands belonging to that Sept, and gave every one his part according to his antiquity.

“These two Irish customs made all their possessions uncertain, being shuffled and changed, and removed so often from one to another, by new elections and partitions, which uncertainty of estates hath been the true cause of such desolation and barbarism in this land as the like was never seen in any country that professed the name of Christ; for, though the Irish be a nation of great antiquity, and wanted neither wit nor valour, and though they had received the Christian faith above 1200 years since; and were lovers of music, poetry, and all kind of learning; and possessed a land abounding with all things necessary for the civil life of man; yet (which is strange to be related) they never did build any houses of brick or stone, some few religious houses excepted, before the reign of King Henry II., though they were lords of this island for many hundred years before and since the conquest attempted by the English: albeit, when they saw us build castles upon their borders, they have only, in imitation of us, erected some few piles for the captains of the country: yet, I dare boldly say, that never any particular person, either before or since, did build any stone or brick house for his private habitation, but such as have lately obtained estates, according

to the course of the law of England. Neither did any of them in all this time plant any gardens or orchards, inclose or improve their lands, live together in settled villages or towns: nor make any provision for posterity: which being against all common sense and reason must be needs imputed to those unreasonable customs which made their estates so uncertain and transitory in their possession.

“For who would plant, or improve, or build upon that land which a stranger whom he knew not should possess after his death? for that (as Solomon noteth) is one of the strangest vanities under the sun. And this is the true reason why Ulster and all the Irish counties are found so waste and desolate at this day, and so would they continue to the world’s end if those customs were not abolished by the law of England.”

But the most destructive custom of all was that which passed under the name of “Coin and Livery.” It consisted in what we should now call military requisitions—but with this aggravation, that as feuds and fighting were chronic and perpetual, the Chiefs were perpetually quartering themselves and their retainers upon their tenants. This celebrated phrase “coin and livery” bulks largely in the enumeration of old Irish grievances, as if it had been invented by the English invaders. But it was, on the contrary, a genuine old Irish custom. It was known under the name of “Bonacht”—the Chiefs never giving to their armed retainers any other pay than this right of living at free quarters upon the unhappy tenants. Nor was this all:—among the Celts of Ireland it may be said with truth that Peace had its exactions not less devastating than those of War. When “coin and livery” were not available, other genuine native customs gave to the Chieftains the most ample compensation. First there was “Coshering,” which were visitations and progresses made by the Lord and his followers among his tenants, eating them out of house and home. Next, there were “Sessings of the Kerne,” or support for his horses, dogs, and attendants. Lastly, there were “Tallages” or “Spendings,”—exactions not capable of defini-



tion—in all which modes the Celtic Chiefs were absolute Tyrants, and the tenants were slaves and villeins.<sup>1</sup>

One other curious illustration may be given of the real relation between ancient Celtic customs and the more civilised Feudalism of the Anglo-Normans. We have seen that more than 120 years before the English invasion of Ireland the Celtic Kings and Chiefs had begun to give formal grants of land to the Monastic Bodies, binding on themselves and their successors. The earliest specimens extant are written in the Celtic tongue, and are drawn upon the same model as the Latin Charters of a corresponding date in England. But it is perhaps still more remarkable that there are also extant two regular Charters in the Latin language granted by native Irish Kings just before the English invasion. As usual, they are grants of land to Churchmen for ecclesiastical foundations. One of them indicates very clearly the conditions of society, and the nature of Celtic customs against which it was the object of those early Instruments to promise immunity and protection. It is from lawless violence and rapine—from fire, from plunder and from theft—that Dermot, King of the Leinstermen, engages to secure the Abbot of Ossory and his successors in the quiet possession of the lands and granges of the new Monastery of Duisk. The other of the two Latin Charters given at the same period by another Irish King to another Monastery is only remarkable in this respect, that we have in it the full adoption of the regular feudal description and catalogue of the things possessed by virtue of Ownership in land. To this I shall advert more particularly again—mentioning it here only in connection with the great subject of the passage and transition from semi-barbarous customs, and unwritten usages, into legally defined covenants and obligations. This transition is shown with striking

<sup>1</sup> Davies, pp. 134-5.

clearness by the very first Charters granted by the Anglo-Norman invaders under Henry II. only one year later than the last-mentioned Charter of an Irish King. One of these was granted by Earl Fitz Giselbert, the famous Strongbow. In the first place, this new Charter was given to a layman. This at once breaks the absolute monopoly of the Church in those "Freedoms" and immunities which piety or superstition had hitherto confined to ecclesiastics. In the second place, we see here the great step made of a strict specification and limitation upon the services which the grantee (or vassal) of the land could be called upon to render, and an absolute guarantee given against the oppressive exactions of Celtic customs. Five Knights' service was the amount required under this Charter, and for this amount the holder of the lands so granted was specially declared to be free from "all the evil customs" of the Irish.<sup>1</sup>

If now we turn from the Celts of Ireland to the Celts of Scotland, the Picts and Scots, we find evidences, as abundant as a much more obscure history can afford, of a social condition which began in substantially the same system. We ought to know more about it than we do. We have one authentic work of the end of the Seventh Century, written by a man who could have told us much, if he had had it in his mind to do so. This is the same Abbot Adamnan, whose interference on behalf of women in Ireland has been before mentioned, and who is the author of the *Life of Columba*. For a good deal more than a hundred years he and his predecessors had been in constant and familiar communication with the Pictish Celts. If any abuses had prevailed among them so gross as those which had arisen in Ireland, we may, perhaps, assume that he would have made some allusion to them. But the literature of that age and race,

<sup>1</sup> *National Manuscripts of Ireland*, Part ii. No. LXIII. "Absque omnibus malis consuetudinibus."

though undoubtedly authentic, is extremely meagre. The truth is that the high but very special civilisation of the early Scoto-Irish Celts is one of the most singular in the history of the world. It shines across the ages with a pure and brilliant light. But it shines only from, and upon, the Altar. It spent itself wholly in the great work of spreading Christianity among the Heathen. This indeed is glory enough for any Church. But it did not indicate in the races among whom it arose, nor did it impart to them, any aptitude for political institutions. Beyond the sphere of its spiritual operations it has left no memorials of itself, except some fine work in gold and jewels lavished upon crosiers, upon the covering of Psalters, upon missals, upon shrines, and upon other insignia of the Church. It gave rise also to a peculiar style of ornament for parchment pages, for crosses, and for tombstones, which lasted for many centuries, and which was undoubtedly founded on the primitive idea of the many articles which in early ages had been made of wattles. But with all its religious devotion, and all its efflorescence in Art, the Clergy, who were its apostles and prophets, seem to have taken little heed of the social condition or of the secular affairs of the people among whom they laboured. There are few things in all literature more curious or more provoking than the contrast between the minute information which Adamnan gives to us respecting many details of Columba's life, and the absolute silence of the biographer on everything we most desire to know respecting the Pictish people in the west and north of Scotland during the Sixth and Seventh Centuries. It is like the contrast between the narrow field of a powerful microscopic lens and the surfaces which are close beside it, but on which nothing is distinguishable. On the one hand we seem almost to hear Columba's voice, and to see his gestures. On the other hand, we hardly see or hear anything of those to whom he spoke the Word, and to whom he sang



the Psalms, and over whom he signed the sign of the Cross.

But although we are told little at this particular time, yet from events which followed at no distant date, and from the general course of history, we know pretty nearly how matters really stood.

All the races which occupied Europe before the Roman conquests, had this in common—that they had not then emerged from the rude Tribal organisation through which, probably, the whole human race has passed. During long centuries the Roman people itself had travelled far from the condition of being one only of the Tribes of Latium. Yet this they had been once,—and nothing more. From their own little settlement on the Tiber they had seen and hated the rival walls of Alba Longa. But now this small Tribe had grown into an Empire which stretched from the Euphrates to the Clyde. Great in Arms, great in Arts, but greatest of all in Law, the Romans had left little trace in their stately jurisprudence of the remote and archaic time when it was tolerated that men should look for the security of their possessions to any other protection than that of an Imperial power enforcing and sustaining an Imperial code. In all these respects the invasion of the Northern Tribes was indeed what the Romans called it, an invasion of Barbarians. Among them there was no central authority, no Common Law built upon scientific reasoning and accurate definitions of the rights and duties of mankind. There was nothing but customs and traditions in a state of perpetual flux, and therefore always at the mercy of those who led and ruled.

The Celts were in all these customs the least developed and the least advanced. The Chiefs seem always to have had, from the earliest times, a much more arbitrary power than among the Teutonic Tribes, as described by Tacitus; and, as in the earliest authentic accounts we have of the Highlands, the Tribal stage had long passed into the

stage of Clanship, we find fully developed all those powers of adoption, of leadership, and of hereditary authority which constituted practically unlimited rule.

We must beware, therefore, of a mistake which is so common as to be almost universal—and that is the mistake of confounding the Tribe with the Clan. They were wholly distinct in their nature and widely separated in point of time. The Tribal stage among the Picts and Scots is, properly speaking, prehistoric. We know of it only from the very superficial information, and the passing allusions of a few Greek and Roman writers. Rome, as is well known, came into sharp military conflict with the Celtic Tribes, and the few facts which her historians mention do much to raise and very little to satisfy our curiosity. That a people so far civilised as to use the beautiful leaf-shaped swords of bronze, which are still often found as sharp and as well moulded as the day they were cast—and who could meet the Roman Legions with armed chariots—should in other respects have been so barbarous as they are described, is indeed not a little perplexing. The holding of land in common is mentioned by Latin authors along with the same practice in respect to wives.<sup>1</sup> If this be correct the Picts and Scots must have differed widely from the Teutonic Tribes. But the truth is, that no great reliance can be placed on these accounts. The most careful and laborious diggers in the mine of Celtic legend and tradition are obliged to confess that all the details connected with the Tribal stage of Celtic society are beyond the reach of history. What we do know with certainty is that during some dark centuries, which are destitute of contemporary records, the Tribal system had been developed into the very different organisation of the Clan; and that the customs and usages of the Clan in respect to the tenure of land were the customs and

<sup>1</sup>. Skene, vol. iii. p. 210.

usages of Feudalism in the rudest and most violent form.

We know this from the long survival within the Celtic area in Scotland of customary exactions the same in origin and the same in character with those which, as we have seen, were the ruin of Ireland. We know it by the fact that after the union of the Picts and Scots under one Crown in the middle of the Ninth Century, it is specially recorded of a certain King Girig, who reigned from 878 to 889, that he relieved the lands held by the newly constituted Scottish Church from the servitudes under which they were held "according to the law and customs of the Picts."<sup>1</sup> We know it, too, by the fact that these exactions were only gradually extinguished on other lands by that one great remedy which, as Sir J. Davies complained, was so grudgingly given to, or so unfortunately withheld from, Ireland, namely, the substitution of the higher and purified Feudalism of the Anglo-Norman Law. It will, perhaps, surprise many to be brought face to face with the historical evidence that Celtic Scotland had the narrowest escape from the same development of corruption which proved so fatal to the prosperity of Celtic Ireland. But that evidence is abundant and conclusive. All those Irish exactions with barbarous titles which are familiar in the dreary history of Irish grievances, appear in counterpart in the customs of the Scoto-Celts. The names by which they are designated have a close family resemblance. The occupants of land under the Chiefs were subject to at least four great burdens, which were called respectively Cain, Conveth, Feacht, and Sluaged. The two first were not necessarily oppressive, for the one great reason that they were at least by way of being fixed and definite portions of the produce. But the two last were in their nature purely arbitrary, answering to the opprobrious "Coin and Livery" of the Irish.

<sup>1</sup> *Celtic Scotland*, vol. ii. p. 320.



They put it in the power of the Chief himself and all his avowed followers to live upon the tenants at his pleasure.

It is very significant that our knowledge of these old Celtic exactions under the Clan system in Scotland is derived from those Latin Charters of Anglo-Saxon origin, which are often popularly represented as having suppressed the ancient liberties of the Celts, but which in reality, so far from imposing new exactions, were the great instruments whereby old exactions came gradually to be abolished or reformed. The Clergy, as usual, continued to seek and to obtain the limitation and regulation of arbitrary exactions, and it is from the grants given to them that we learn how heavily and how universally they were levied in the Highlands upon all lands which were not held "feudally"—that is to say, not under the new Latin and Anglo-Norman type of Charter. In the two great ancient Provinces of Argyll and Moray we have examples of such special exemptions given in the 13th century. The Celtic exactions of "Sluaged" and "Feacht," and others, which seem to have been nameless, are specified in Latin by such words as these: "ab exercitu et expeditione, et operatione et auxilio, et ab omnibus consuetudinibus, et omni servicio et exactione"—words which by their very variety and sweep indicate clearly the number and the unfixed character and extent of the "exactions" to which the people were exposed under the native Feudalism of the Celts.<sup>1</sup> In respect to some of these exactions we have specific information of the quantities of produce which continued to be, or came to be levied under them. One of these was called "Conveth," which answers to the Irish "Coigny," and represented that most ancient of "Tribal rights," namely, "the original right which the leaders in the Tribe had to be supported by their followers."<sup>2</sup> Locally, in the Western Highlands, this particular exaction acquired the name of "Cud-

<sup>1</sup> *Celtic Scotland*, vol. iii. pp. 228-9.

<sup>2</sup> *Ibid.* p. 232.



diche," and it seems to have often mounted up to quantities of produce far greater than any regular rent. Three hundred years and more after we first hear of them from the exempting Feudal Charters of the 13th century, we find them prevailing in Argyllshire and in the Western Isles, and we find them amounting to such heavy payments as 18 score of chalders of grain, 58 score of cows, 32 score of sheep, and a great quantity of fish, poultry, and cloth plaiding,—all by way of feasting their master when he pleased to visit the country. In Uist each "merk-land" paid 20 bolls of grain; and in Mull each merk-land paid 13 bolls of grain and meal, 20 stones of cheese, 4 stones of butter, 4 oxen, 8 sheep, 2 merks of silver, and 2 dozen of poultry, all as "Cuddiche" whenever their master comes to them. And this was close to the end of the 16th century—in 1595.

The Monks of Iona do not seem to have been much impressed by the advantages of these relics of the Old Celtic Tribal system, and like other wise men they took refuge in the more lenient, and less lawless Feudalism represented by the Latin Charters. And so in 1580 their successors secured from the Chief near whom they lived, M'Lean of Dowart, a grant of their lands under the promise of being protected from these genuine old Celtic liberties the true character of which is very frankly described. The Chief was to "suffer no manner of person or persons to oppress the said lands of Iona and Ross, or tenants thereof, or trouble or molest them in any sort with either 'stenting' or conyow, gerig service or any manner of exaction."<sup>1</sup> In Athol some of these old Celtic exactions were levied so late as 1719-20. These instances, and numberless others which might be given from similar records, show, as Mr. Skene observes, "that these Celtic burdens on land prevailed over the whole country north of the Firths (of Clyde and Forth) on all lands which had not become the subject of feudal grants."<sup>2</sup> The one

<sup>1</sup> *Celtic Scotland*, vol. iii. p. 233.

<sup>2</sup> *Ibid.* p. 230.

essential feature which distinguished them from Rent properly so called, or from the legal forms of Feu-duty, was the uncertainty of their amount, and the consequent liability to unlimited extension at the hands of those who were practically possessed of supreme power.<sup>1</sup>

But in Scotland all the later developments of time were in the direction of modification, of amelioration, of wise and temperate legislation, in direct proportion as the Provinces became united under one Crown, and subject to one Parliament. In this civilising process, beyond all question, the introduction and establishment of the Feudal System, as developed among the Teutonic races, played a most important part. Historians speak of the silence, of the comparative rapidity, and of the completeness of this great legal conquest—as if it were a profound mystery. But, in truth, there is no mystery at all. The Feudal System spread because it was the best possible embodiment and expression of ideas which had been long familiar, and of facts which had long come to be of universal prevalence. The ruinous customs and usages which we have seen established among the Celts were feudal in their root, in their origin, and in their essence. But they represented Feudalism in its most barbarous form—unrestrained by any sense of justice or of law. Cognate ideas,—analogous rights and duties,—were embodied in the Anglo-Norman Feudal System; but they were moulded and governed by more civilised conceptions of an orderly and settled jurisprudence. All ranks and conditions of men found their personal interest in accepting that system—because it gave legal definition to customs which had previously been undefined, and held out to a growing civilisation that which is its first condition, and which has always an irresistible attraction to the minds of men—a logical and reasonable system of defined rights and duties, under which all classes knew

<sup>1</sup> *Ireland in the 17th Century*, by M. Dickson, Introd. pp. 4-5.

what they might and what they might not do. This was the real strength of the Feudal System, and this strength it drew from the silent but insuperable influence of that great agent of civilisation—the Roman Law. Even in Ireland, as we have seen, the power of that Law had begun to work through the ubiquitous agency of the Latin Church. In Scotland the perfected combination of Imperial Law with Teutonic Custom was greatly helped by the actual spread of a kindred population over large portions of the country—by the marriage of a Saxon Princess to Malcolm Canmore, a contemporary of the Conqueror—and by the subsequent close alliances of the Celtic Chiefs with the Norman and Anglo-Saxon aristocracy.

These were indeed adventitious advantages, and causes of diffusion, which were of inestimable value ; but nothing marks more strikingly the natural adaptation and fittingness of the Feudal System into pre-existing and purely native conditions, than the fact that the old Celtic titles, derived originally from the language of Tribes and Clans, became universally translated, without any sense of break or change, into the titles which were known and established over the rest of feudal Europe. The Celtic “Mormaers” took their natural place as Saxon “Earls” holding under the King ; whilst under the Earls again the Celtic “Toisechs” took their corresponding place as Chiefs of Clans. Thus, in the organisation of the Celtic parts of Scotland, “we find,” as Mr. Skene has said, “a gradation of persons possessing territorial rights within them, consisting of the Ardri, or supreme King, the Mormaer, and the Toisech, and the latter of these as not only possessing rights in connection with the land, but also standing in a relation to the Tribe or Clan which occupied them, as leader.”<sup>1</sup> All this was essentially allied to the Feudal System, and so when that System in its higher form came

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. pp. 57-8.



into contact with the vaguer, less definite, but fundamentally analogous customs which had arisen out of the necessities of life among the Celtic as well as among the Teutonic Tribes, it naturally absorbed these customs into itself, and gave to them a legal and well-regulated definition.

Among the Celtic population, indeed, in exact proportion as the remoteness of the country withheld them longer from the benefits of this System, we find their own more ancient usages tending not to greater freedom among the mass of the people, but to more absolute and arbitrary power in the hands of those who were their Chiefs and rulers. Accordingly, the civilisation of Scotland began in the Lowlands, where the Feudal System was earliest established, and along the whole eastern districts which were outside the Highland barrier. Just in proportion as they were outside that barrier of rough hills and mountains, they were inside the advancing line of mixed races, and of laws becoming more just and settled—through all those processes of natural selection which mark the history of an advancing people.

All historians of Scotland are agreed that the two centuries which elapsed between Malcolm Canmore, with his wife Queen Margaret, and the death of Alexander III. in 1286, constitute the epoch during which Scotland made herself a Nation, and advanced most rapidly in civilisation and in wealth. During the whole of it the direct descendants of that illustrious union of the Celt and Saxon continued to occupy the throne, and during the whole of it there was constant progress made in that amalgamation of races to which our Island owes so much. I have spoken of the line of mountains—the Grampian Range—which rises like a wall from the low grounds of the Valley of Strathmore, and from the Firth of Clyde—as the Highland Barrier. But it must not be supposed that it remained long a barrier after the union of the Picts and Scots, still less after

the Saxon and Norman stream set in under Queen Margaret and her descendants. The broad belt of country, comparatively low, which flanks that line of mountains to the east, and stretches from the Forth and the Tay round the whole coast of Scotland to the Beaully Firth, was gradually but surely occupied by an Anglo-Saxon population, and one of the Kings of this period—Malcolm the Fourth—drove out the Celts from the rich province of Moray, and resettled it with the mixed races of the South.<sup>1</sup>

From many points of all this low country, the central Highlands were accessible along the banks of rivers rising on the hills of watershed, between the west and east. The Teith, the Earn, the Tay, the Dee, the Deveron, the Don, the Findhorn, and the Spey, were all more or less easy lines of access to the strongholds of the Celt, whilst the great diagonal Valley which cuts right across Scotland from Inverness to the Isle of Mull,—Glenmore—constituted another line of penetration. On the southern flank, the beautiful Province, and ancient Earldom, of the Lennox, was open from the branches of the Firth of Clyde, and from the fertile Strath through which Loch Lomond sends its waters to the tidal estuary at Dumbarton. It is this gently flowing stream the Leven, in Celtic tongue “Leven-achs,” from which the whole district takes its name. Embracing the whole of the present county of Dumbarton and a great part of Stirling, the country of the Leven,—the Lennox—remained, almost up to our own day, half Lowland and half Highland—half Saxon, and half almost purely Celtic.

Under such a combination of geographical and of political conditions, it is not surprising to find that the fusion of races and the assimilation of institutions had made immense progress, when the light of history first becomes clear in the Eleventh Century. The way had been prepared beforehand, not only for the Saxon or the Norman Knight, but

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. p. 27.

for any Chief or any leader of kindred blood who could combine courage with knowledge and with conduct in the pursuit of arms. It must always be remembered that the Celts had been successfully invaded by the Teutonic races from the North and West, long before they came to be invaded by the Saxons and Normans from the South and East. For several hundred years, after the union of the Picts and Scots, in the middle of the Ninth Century, a very large part of the country, what we now call the Highlands of Scotland, was ruled by an alien Gothic race.<sup>1</sup> Over the whole of the Hebridean Islands, and over the whole of the Northern Highlands down to the chain of Lakes now occupied by the Caledonian Canal, petty Kingdoms were established under Chieftains who were Norsemen. The native Celts became their Clansmen rather than their subjects—or their subjects only in the same sense and measure as all Clansmen had become subject to their Chiefs. The Celts must have clustered round the standard of those hardy warriors, just as they had before clustered under leaders of their own. Of course this Norse dominion had not been achieved without endless fighting. But it was achieved without any extermination, and apparently without even much displacement of the native Celtic population. The Celts were enlisted rather than subdued, and incorporated in the rough Feudalism of a great military race.

There was constant intermarriage between the Teutonic and the Celtic Chiefs, so much so, that it is often difficult to determine clearly to which of the two bloods the most celebrated men belonged. There is no name more familiar to our ears, in the history of that dark time, than the name of Somerled, and none more associated with our very idea of the northern race, whose dominion was founded on the Galley and the Sea, and from whose

<sup>1</sup> Burton's *History of Scotland*, vol. i. chap. ix., and Skene's *Celtic Scotland*, vol. iii. chap. i.



language the sound of that name unquestionably comes.<sup>1</sup> Yet it seems now certain that on the father's side, at least, his origin was Celtic, whilst his Norwegian name probably indicates some near family relationship with those whose rule he fought against and, at least, locally overthrew. But that a Chief who championed the cause of the old native population of Argyll and its Isles should have borne this Norwegian name, although in the male line his parentage was Celtic, is a sufficient indication how purely personal were the qualifications which then determined leadership; and how thoroughly mixed in origin the great leading families had become. Whether the population had become equally mixed, is very doubtful. Probably they had not, because, except in Caithness, and in some other parts of the lower margins of land most accessible to the sea, it does not appear that the Norsemen settled in large numbers upon the country as colonists. But it is clear that the native Celtic population had come to serve under whatever rulers were able to establish their authority, and had been absorbed into the military system by which that authority was maintained. This system was purely feudal in its root and essence,—consisting in subordination and fidelity to Chiefs, on whose capacity the followers depended, and to whom they in turn contributed only that which Muscle must ever yield to Mind.

When we consider that these contests with the Norsemen, and between rival Chieftains who were half Norse and half Celtic, and between Clans formed by the followers of these Chiefs, but who were predominantly of one race,—went on in the Highlands and Islands for the long period of more than 400 years—that is to say, from about 860 to 1266,—when we consider further that at one time—about the middle of the Eleventh Century—the battle rolled through all the mountains to

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. pp. 32-3.

the eastern shores, and southwards as far as the valley of the Tay, so that the whole of Scotland north of that river was for a season under the Norse power<sup>1</sup>—we can imagine how thoroughly and minutely the individuality of Clans must have been broken up, and every fragment of the Archaic Tribal organisation must have been ground to powder. The dream of any simple patriarchal system in the Highlands, within historic memory, bound together in peaceful Village Communities like those of the mild Hindu, is a dream indeed. It is true that the people lived in villages, partly from immemorial habit, but still more for the excellent reason that men must cluster together when they live in perpetual danger. It is true that they pastured great extents of land promiscuously, because the scientific agriculture which requires inclosures and the application of individual skill, was entirely unknown, whether as regards the production of corn, or as regards the breeding of animals by careful and artificial selection. It is true also that in name at least the hereditary principle lingered on, for this was common to the Saxon and to the Norman as well as to the Celt, and was provided for in the better and stronger form by the higher Feudalism of those races than by the ruder Feudalism of the Clans. But the organisation of society throughout the Highlands had become military from the apex to the base, and all the power of Mind, and of supreme Authority, had been concentrated in Chiefs, who represented a mixture of races, and who brought in the elements of a higher civilisation. The tie of common blood had through the fierce work of centuries been universally superseded by the tie of fidelity to men who could lead others to victory, and who could protect them during intervals of peace in the complete devolution of all labour upon their women, in the enjoyment of their turf huts, of their thin cattle, of

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. p. 31.

their little hairy sheep, and of their strong cakes of meal.

It is only when we remember all this tremendous history of fighting and of rapine,—when the only bond between man and Chief was not blood inherited, but blood shed in common,—that we can fully understand the significance of the very earliest facts which reveal to us the condition of the Highlands, when the light of history first shines clearly upon it. Thus more than forty years before the close of the Celtic dynasty of Malcolm Canmore, we are startled by finding that a Knight of purely Norman name and race was the feudal leader of a powerful Highland Clan, and the possessor of a great tract of country in the very heart of the Highlands. This comes out in the curious story of the Byssets which well illustrates how the Highlanders of that day thoroughly understood Feudalism in its rude and archaic principle of personal and military fidelity, but did not understand it in the modifications and refinements which had arisen among races more advanced in civilisation, in courtesy, and in law. In the year 1242, in the reign of Alexander II. (1214-1249), a great tournament was held in Lothian, near Haddington. The Byssets came to it from the mountains and glens of Lochness with their Highland Clan. One of the Byssets was unhorsed by the young Lord of Atholl. In the high code of chivalry this involved no feud, nor even any offence. But the Celts of Lochness understanding only that part of Feudalism—noble in itself,—which consisted in fidelity to their Lord, and understanding nothing of the chivalry which was of Norman birth, vented their anger in the murder of Atholl and the burning of his house. For an outrage so hideous against all the laws and feelings of chivalry the Byssets were justly outlawed, and it shows how powerful the Scottish Monarchy had then become even in that remote region of the Highlands, that this great Norman



family were deprived of their lands, and their somewhat incongruous name disappears from the history of the Highlands.<sup>1</sup>

But it is equally significant both of the state of the country at that time, and of the course which subsequent history has taken, that part of the same lands in the heart of the Highlands were transferred not very long after, in the Thirteenth Century, to another family of blood as purely Norman as the Byssets, but whose name, by phonetic decay or assimilation, has become one of the most familiar, and one of the most Highland, of all names connected with the Clans. This is the name of Fraser. The evidence seems complete that this name appears first in Norman-French under the form of Frézeau, from which it passed through the forms of Fiézel and the English Fresel, until fully a hundred years before this Lothian tournament the family was firmly established in the Lowlands of Scotland, with extensive possessions, under the name of Fraser.<sup>2</sup> From this position they passed on by alliances and military services until, under Robert the Bruce, they became lords of great possessions in the central Highlands, where, as is well known, under the title of Lovat, they founded and maintained for centuries one of the most powerful of the Highland Clans. It is needless to say that Bruce himself was the immediate descendant of a Norman Knight, De Brus, that his family was first settled in Yorkshire,<sup>3</sup> where it was cherished by the successors of the Conqueror, —and that its first possessions were in the Border counties of Scotland, the great districts of Annandale and Carrick.<sup>4</sup> Yet from the moment that the standard of national independence was raised by

<sup>1</sup> Burton's *History of Scotland*, vol. ii. p. 889.

<sup>2</sup> *The Frasers of Philorth*. By Lord Saltoun, vol. i.

<sup>3</sup> Lochmaben, etc., by Rev. William Graham (1865), p. 7.

<sup>4</sup> Mr. Cosmo Innes has reminded us of the great number of the greatest names in Scotland which represented Anglo-Saxon and Anglo-Norman colonists—such as Cumin, Douglas, Dunbar, Gordon, Hamilton, Lindsay, Maule, Stewart, Sinclair, and Wallace.—*Origines Parochiales Scotiae*, Preface, p. xxvi.

Bruce, he had no more devoted adherents than among the purest Celts, whilst some of his bitterest and most dangerous opponents were the descendants and representatives of western and northern Clans who had collected under Norseman Chieftains. Among the earliest of his followers, and among the most constant, was the purely Celtic family from which I am descended—a family of Scoto-Irish origin—that is to say, belonging to that Celtic colony from Ireland which founded the Dalriadic Kingdom, and to whom the name of Scots originally and exclusively belonged. The name when it first appears in writing is always Cambel, and never Campbell, the letter *p* having been subsequently introduced in connection with the fashion which set in at one time to claim Norman lineage as more honourable than the Celtic. But the name as universally written for many generations is a purely Celtic word, conceived in the ancient Celtic spirit of connecting personal peculiarities with personal appellatives. “Cam” is “curved,” and is habitually applied to the curvature of a bay of the sea. The other syllable “bel” is merely a corruption of the Celtic word “beul,” meaning “mouth.” So, in like manner, the purely Celtic name of another Highland family, Cameron, is derived from the same word “Cam,” and “sròn” the nose. But that portion of the Celtic race which first owned the name of Scots must have had in its character and development something which made it predominant, so that its name came to be that of the whole united Monarchy. Probably all its Chiefs had a memory and traditions which predisposed them to fight for that Monarchy as their own. Certain it is that Sir Nigel Cambel fought with, and for, the Bruce in all his battles from Methven Bridge to Bannockburn, and was finally rewarded by the hand of the Lady Mary, sister of the heroic King, who achieved the final independence of his Country.

But though King Robert the Bruce had the advantage of loyal help from Chiefs who were of purely Celtic blood, he does not seem to have had the smallest difficulty in granting complete dominion over large tracts in the Highlands to followers who had no hereditary connection with them. To his own nephew, one of the noblest and bravest of all his little conquering band, Randolph, he gave the great Earldom of Moray,—one of the most extensive of all the Highland territories which had been long held by Celtic Chiefs, under the ancient title of the Mormaers of Moray. This territory stretched from the line of the river Spey, on the east, right across the whole Highlands to the western coast opposite to Skye, and included the whole modern county of Inverness from the marches of Ross on the north to those of Argyll on the south.<sup>1</sup> We have seen that Norman Knights had long before been established in this Celtic country, and that the Celts had served them with a rude and fierce fidelity. There was no reason why they should not serve with equal fidelity under the Ownership and the lead of a Chief who was a leader of men indeed,—whose name had become famous in the world,—and in whom the strong Norman blood had been quickened by Celtic descent from Malcolm Canmore, and refined by Saxon inheritance from the saintly Margaret.

<sup>1</sup> Douglas's *Peerage*, vol. i., Earldom of Moray.



## CHAPTER II.

### THE AGE OF CHARTERS.

THERE is no more striking illustration of the perfect continuity between things new and old in the establishment of the Feudal System than is to be found in the earliest extant feudal Charters conferring grants of land. In Scotland they begin with the Eleventh Century. For an excellent reason those who have written about them are obliged to begin with at least one much older document. In the end of the Sixth Century Columba, coming from far Iona, seems to have established a Religious House among the north-eastern Picts in that district of Scotland between the Dee and the Spey which was called Buchan. There for several hundred years the little Abbey of Deer continued to carry on the succession of the Old Columbite Church. Somewhere about the close of the Ninth Century, after the union of the Picts and Scots, one of the Monks of this Abbey employed his time and his skill, as so many of his brethren did all over the Christian world, in making an embellished copy of the Gospels on fair vellum. It seems to have been kept in the Monastery as one of its treasures, because nearly two hundred years later than this Latin writing, another Monk could find no more safe and lasting method of recording the benefactions of their ancient House, and the titles by which they held their lands, than by writing the history of them on the broad margins, and on the vacant half-pages, of this old

manuscript of the Gospels. This, accordingly, he did in the Celtic tongue, which appears to have been a spoken language in Buchan down to a much later date. Tradition is perhaps nowhere safer than when it is transmitted through the quiet memories of the Cloister, and when these are not distorted by the atmosphere of religious marvel. On secular affairs such memoranda of the donations and grants of Kings and Chiefs, appear to have been accepted in the earlier Middle Ages as the truest evidence to be had respecting the promises of the dead and the obligations of the living. And so it comes to pass that the Celtic jottings in this old *Book of Deer* acquaint us with a long succession of grants of land made by Celtic "Mormaers" and "Toisechs" to the Abbey during several Centuries, when written Charters were unknown. It is the old story. Lands expressly including "both mountain and field," were given, in exclusive possession, to the Columbite Brethren, sometimes simply named, sometimes still more simply described by childlike indications such as these—"as far as the Birch tree is between the two Alterins." But one essential feature of the gift or grant always is, that the land is to be free from the old Celtic Feudalism—the "exactions" of Mormaer and of Toiseach.<sup>1</sup>

It is impossible to understand the early Charters—their true place in history, in usage, and in law—without reference to those much earlier transactions which had been going on for more than 500 years. Under these, land had been conveyed by and to the same ranks and conditions of men—from the same motives—in exercise of the same powers—and with the same promises and effects. There was no change whatever, except that earliest step in civilisation which comes with the more familiar knowledge of the art of writing, and which substitutes the sure evidence of documents that can be read, for the memories of intention transmitted only

<sup>1</sup> *National Manuscripts of Scotland*, Part i. p. 3.

through the ear, and recorded only by the breath. That there was no consciousness of any novelty as regarded the nature of the transaction in the minds of those who gave the first Charters in Scotland, is clear from the very form and nature of the Instruments themselves. For in this lies the full explanation of one great peculiarity about them which has often been observed, but the true significance of which has not been always as clearly seen. This peculiarity is the extreme shortness and simplicity of the earlier Charters. For brevity and conciseness they have been always the wonder and admiration of modern lawyers. But the cause and the meaning of their shortness and simplicity have too much escaped attention. If they had purported to give or to secure anything which had not been well known before, this striking brevity would have been impossible. If they had conveyed new rights and imposed new duties, it would have been necessary to describe these, and to explain them. But as they neither did nor professed to do anything of the sort—as they were nothing more than a new Form of acknowledgment and security for ancient rights which had been familiar in the actual transactions of life for centuries before—it was not necessary to explain anything. Dominion over, and exclusive possession of, property in land, with all its incidents, had been vested in Kings and Chiefs, and in others under them, in Scotland, as in all other countries, time out of mind. Hence, the earliest feudal Charters could be, and were, actually confined to a few lines on parchment, expressing nothing but the promise and the faith of those who had the actual power to grant, and the name and designation of those who were in a position to accept, all the well-known powers and obligations of Ownership in land.

A very clear proof of the great antiquity of all these possessory rights and powers comes out in the result of a formal inquiry or “inquest” held in the



year 1116 respecting the landed property of the ancient See of Glasgow founded by St. Kentigern in the Seventh Century. That property, as ascertained upon oath before "good men of the country," who conducted the inquest, must have consisted in grants and donations to the first Bishop and his early followers which were then nearly 500 years old. Yet the evidence was so consecutive and conclusive, that the verdict was accepted by numerous and powerful men who had the strongest personal interest in testing it to the last. Possession followed upon it. And this possession did not consist in mere Tithes or in mere Church-dues, but in broad lands, and numerous Manors scattered all over the south of Scotland.<sup>1</sup> It was not the nature of the thing done, but only the method of recording it that underwent a change in the dawning light of a rising civilisation. The earliest extant Charter of lands in Scotland is by King Duncan, son of Malcolm Canmore, and of the Saxon Queen Margaret (1094-7). It is a grant to a Religious House, the Monks of St. Cuthbert. It specifies the lands by name, and refers to the "service" due therefrom as the essence of their value. The extent and nature of that service is simply described as the service previously possessed by a certain Bishop Fodan. All rents and dues at that time necessarily took principally the form of "service," and it was the right of receiving "service" from any given lands that mainly in that age constituted their value. There was no attempt or need to specify what they were, further than by reference to the continuity of enjoyment from a former Owner. It is this definite reference to well-known pre-existing rights that is one of the most striking features of the early Charters, and it was this alone which made it possible for them to be so concise. But no general description of these early Charters of the Eleventh Century can be so striking as the documents themselves.

<sup>1</sup> *Origines Parochiales Scotiæ*, Preface, pp. xxiii-iv.

Here, therefore, I give, *in extenso*, a literal translation of this oldest of Scottish Charters :—

CHARTER OF KING DUNCAN TO THE MONKS OF  
ST. CUTHBERT. A.D. 1094.

I Dunecan, Son of King Malcolumb, by hereditary right King of Scotland, have given in alms to Saint Cuthbert and to his servants, Tiningeham, Aldeham, Scuchale, Cnolle Hatheruich, and of Broccesmuthe, all the service which Fodan the Bishop thence had. And these I give in such quittance, with sac and soc (Jurisdiction), as ever St. Cuthbert has had best from those from whom he holds his alms. And this I have given for myself, and for the soul of my father, for my brothers and for my wife, and for my children. And because I would that this gift should be firm to Saint Cuthbert, I have made my brothers join in the grant. But whosoever would destroy this, or take from the servants of Saint Cuthbert any thing of it, let him bear the curse of GOD, and of Saint Cuthbert and mine. AMEN.

Then follow the rude crosses which the greatest laymen of that age could alone make to indicate their signature—one cross for the King—nine for as many witnesses, and one for the learned Scribe who wrote the Deed, and who added across the uncultured but sacred symbols such syllables as these—“Crux Duncani.”<sup>1</sup>

The same general character belongs to all the Charters given by the Scottish Sovereigns during the Eleventh, Twelfth, and Thirteenth Centuries—that is, from the death of Malcolm Canmore, in 1093, to the death of Alexander III., in 1286. Nor must it be supposed that these things were done in a corner—that they were the individual acts of Kings, executed without warrant from the universal sentiment of the nation. In the reign of

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. II. p. 4.

David I. (1124-1153) Charters of land were expressly given with what may be called in modern language the consent of Parliament or Great Council of the nation. In the old Celtic "Scotland" proper, which lay north of the Forth, they had been given in the true Celtic spirit, with the formal assent and concurrence of the Seven Earls, the Chiefs of the Seven great Provinces of the North. But in King David's time, when the Southern Provinces had been added to the Monarchy, they were given "with confirmation of Bishops, Earls and Barons"—to which is sometimes added "with consent of the clergy and people."<sup>1</sup> All ranks and orders were not only familiar with the nature of such grants in all parts of the Kingdom, but were familiar with nothing else as the only guarantee of peaceful Ownership. And so, no elaboration was required. The Clergy were the only lawyers and the only conveyancers. They wrote concisely, and to the point. Bits of parchment one inch in breadth, and a very few inches in length, were enough to convey great Earldoms and Baronies in the days of David I. Eleven lines on a small parchment conferred the whole of Annandale upon an ancestor of King Robert the Bruce. This Charter is so typical, and stands so early among those conveying lands—not to Churches but to laymen—that I give it also in full translation :—

CHARTER OF ANANDALE TO ROBERT DE BRUS,  
A.D. 1124-1130.

David by the Grace of God, King of Scots, to all his Barons and men and friends, French and English, greeting. Know that I have given and granted to Robert de Brus, Estrahanent, and all the land from the march of Dunegal of Stranit, even to the march of Randulph Meschin. And I will and grant

<sup>1</sup> "Clero etiam acquiescente et populo." Skene's *Celtic Scotland*, vol. i. p. 459.



that he hold and have that land and its castle, well and honourably, with all its customs, to wit, with whatever customs Randolph Meschin had in Carduill and in his land of Cumberland, on whatever day he had them best and most freely. Witnesses. . . .

It will be observed that in this Charter there is not one word of definition except by explicit reference to previous well-known and established rights. The lands are described by marches which are assumed to admit of no dispute. But all "customs" or services are simply referred to as those which a former Proprietor had enjoyed, at whatever time and under whatever circumstances he had them "best and most freely." No feudal service whatever is provided for in the Charter. Probably this also was left to usage and to the general duties of allegiance.

These earliest, and almost archaic forms of Charter are of the highest interest and importance, because, rude and simple as they are, they contain not only the germs, but the main provisions, and even some of the very words out of which the latest and most elaborate Charters were naturally evolved. First it was their object simply to record; and then, secondly, it became of necessity their object to define. It is impossible to record clearly anything which cannot be defined distinctly. But nothing can be defined distinctly respecting which our own conceptions are vague and hazy, or which is in itself variable—in the sense of depending wholly on arbitrary Will. Hence it was that in the very nature of things Charters tended to the abolition of the old lawless exactions of Celtic Feudalism. They effected this as regards all lands given to the Church by expressly forbidding these exactions altogether. They effected the same object as regards lands granted to laymen by substituting definite and fixed amounts of payment or of service.

But the same necessity for deliberate thought which is one of the great causes, and at the same

time one of the great consequences of civilisation, called for another definition in the Charters. What was it that they gave? What, and how much were they intended to secure? When no technical phrases had been yet established, how was property in land to be described? The very simple and childlike expedient of describing the things given as the same with those previously enjoyed by the last Owner, and of adding by way of emphasis that this equality was to be maintained up to the highest level of that enjoyment at its best and fullest—this expedient obviously could not be lasting. It is indeed very curious how long it did survive in various forms of expression, which are easily recognised as relics of the infantile conception which we have seen expressed in the two Charters already given. But the needful definition soon began to grow. It was purely an instinctive and not at all a formal or scientific process. It came in the simple effort to record what was meant by the great Manors and Lordships as well as the smaller estates which had been enjoyed for centuries. Did they mean nothing but the possession of some small area of ground which had been roughly inclosed and brought into cultivation? Did all the rest of the land, which in those early days must have been by far the greater part of the country—wild ground, bogs, woods, natural opens of rough grass, hills, mountains—did all these great areas of country belong to everybody in general and to nobody in particular? Did the fact that these spaces were used—in the only way in which they could be used—as pasture for the cattle and sheep of Bondmen and of followers, and of retainers—of all in fact who lived upon or near the land—did this scattered and indefinite use prevent, preclude or limit the full Ownership of the Chief, or Lord, or Owner? Had any great break or change occurred since the old centuries when the Celtic Book of Deir had recorded that grants of land included “both Moun-

tain and Field"? Not at all as definite legal problems to be solved, or as questions even consciously propounded, but as a necessity of thought in the mere act of recording that which Charters were intended to convey, these alternative conceptions would be naturally and inevitably encountered.

Accordingly when we look into the Charters the growth of definite ideas, and of definite expressions, is most curious and instructive. In the first extant Charter from King Duncan, as we have seen, there is nothing whatever to express Possession except the words, "have given in alms" the lands whose names follow—with the explanation added, "all the service" which a preceding Owner "thence had." The second Charter to Robert de Brus amplifies these expressions a little. Here it is "all the land" within certain known boundaries which is "given and granted," with a further explanation that it is to be "held and had" with its Castle and "all its customs" as held by a predecessor. This is a step in advance, because "all the land" is clearly intended to cover the whole area whether cultivated or waste. But a few years later than King Duncan's Charter, in the reign of King Edgar (1097-1107) we have another Charter even shorter than the first, but in which we see still further progress in explicit definition. It is a grant to the same religious Brotherhood which was specially favoured by the descendants of Queen Margaret, the Monks of St. Cuthbert. Here the words are fuller, although still marvellously concise. The estate is designated by its name, with these words following: "both in lands and in waters, and with all that is adjacent to it—namely, that land which lies between Horverdene and Cnapdene—to have and to hold freely and quietly, and to be disposed of at the will of the Monks of St. Cuthbert."<sup>1</sup>

The absence of formality—the perfect simplicity with which these expressions are used, indicate clearly that they were nothing more than a mere putting

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. III.



into words of the common understanding of the age, respecting all that was carried in a gift of lands. In this case the waters appertaining to the land are mentioned incidentally as included in the gift. And so in yet another Charter of the same Reign, which is the shortest of all, we have one item specified—which speedily disappeared for ever—namely, the “men” or Bondmen who were resident on the property conveyed.<sup>1</sup> The words are, “with men, with lands, and waters.” And then in another Charter we have light cast—through the same little lattice-windows of expression—on those most interesting of all points connected with the history of the occupation and improvement of land—namely, the condition of the Bondmen, and the conditions under which the reclamation of wilds and wastes was then deliberately undertaken. In this document<sup>2</sup> the King adds these words:—“I have also given to the Monks twenty-four beasts for reclaiming the same land,” and goes on further to explain that by express agreement with the “men” of a certain district he had ordained that they should pay to the Monks half a silver merk yearly for every plough. This is clearly a case of commuted service. If it refers to Bondmen it shows how light that bondage had become when they were consulted and made parties to the arrangement. If they were Freemen it shows the permeating effect of Charters in substituting fixed payments for old but arbitrary exactions.

As we come down in time, during the reign of David I., there is a rapid development of form, and of expression, especially when that Sovereign had to deal with the great Religious Houses of Melros, Kelso, and Holyrood. Probably among the Monks in those parts of the Low Country there were writers of greater skill. There is nothing, however, in those Charters which indicates any novelty whatever in the benefits conferred. On the contrary,

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. V.

<sup>2</sup> *Ibid.* No. IV.

there are the same allusions to previous Owners, and to accustomed powers. But there is a steady growth in the direction of greater precision, and of a more complete enumeration of the rights which were universally understood to be involved in Ownership. Some of these depended on local position, such as rights over the wrecks of ships. Fishings assume from the beginning a very definite place, showing how highly they were valued as an appurtenance of certain estates. Moreover, these are often conveyed in limited shares sometimes upon distant streams, and restricted to the sweep of a fixed number of nets. But in these Charters we see the ordinary and standing definition of that which was specially conveyed in grants of land, assuming substantially the form which it retained for centuries. That form arose naturally and necessarily out of the endeavour to enumerate as exhaustively as possible all the kinds and qualities of surface which the land presented almost everywhere in those ages. Thus the Charter of Melros specifies lands to mean "the whole land in wood and plain, in meadows, and in waters, in pastures and moors, in ways and paths, and in all other things."<sup>1</sup>

It must always be remembered that the way in which land is used, in respect to agriculture, is a totally different matter from the principle on which land is held, in respect to Ownership. The method of use is one thing; the principle or the condition of tenure is quite another thing. It is a great confusion of thought to confound these two together. Traces and records and survivals in abundance, show that great areas of country were once used by many men in common, and from this it is concluded that the Ownership could not have belonged to an individual. But this is altogether erroneous. If the Ownership in the fullest sense had not belonged to individuals in those days, the men who enjoyed the common use of it would not have been

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XVII.

allowed to enjoy it long. There were plenty others ready to seize it at a moment's notice, if it were not protected by the powerful Chief or Baron who had the interest of exclusive Ownership to assert and to defend. Just as the Crown promised its protection to him as Owner, so he, and he alone, could afford protection to his men as Users. But the promiscuous use of such lands amongst his Tenants and retainers was a necessity arising out of the nature of things. Wild wastes, and woods and moors, could only be used by and for a number of men, although the Ownership lay in one. Such surfaces were then useless except for pasture or the chase, and as they were without fences or divisions of any kind, separate areas could not be kept for the cattle of separate individuals. In this sense, but in this sense only, they were used in common. But they were so used only by individualised groups of men, whether bond or free, whose tenure was dependent on the tenure of the Lord to whom by Charter it had been given, or in whose hands still more ancient rights of Ownership had by Charter been recognised and confirmed. It was always to him that the native population (*nativi*) whom he found, or the colonists (*coloni*) whom he brought, or the Free Tenants whom he invited, owed even one moment's security and peace. The enjoyment which, under him, was common to the Few, was an enjoyment absolutely exclusive of the Many. And the Many were always quite near enough to make them a continual presence in the mind. From across some rough hill, or over some dreary moor, or from beyond some firth or bay of the sea, outsiders, representative of the Many, were always ready to rush in upon the Few who were protected in the exclusive enjoyment of good natural meadows, or of sheltered woods with fine pastoral glades, stocked with sheep, and swine, and cattle. Nothing but the quieting effect of acknowledged power and right, founded on the deeds and on the authority of centuries,



could then keep the country in peace, or give time and place for the settlements and improvements of civilisation. Hence the recording work of Charters would have been indeed imperfect if it had not carefully included all the lands which, so far as the plough was concerned, were then wastes and wildernesses, within the area of individual Ownership, for responsibility and defence. It is not too much to say, that if the thoughtless sentiment which is now so often cherished in favour of the common use of land, as distinguished from individual Ownership, had been a sentiment capable of existing in the Eleventh and Twelfth Centuries, Scotland, which was largely desert then, would have been nearly as desert at the present day.

Perhaps it may occur to some, as a distinction, that the Charters I have quoted had all of them reference to parts of the country which are now Lowland, and were settled by the Teutonic races. But this is to pre-date a condition of things which had not then arisen. We have already seen how completely the Highlands proper had been penetrated, through and through, by the power and leadership of those races. We have seen, too, how Feudalism in its very roughest and rudest forms had been long established as the very root and essence of the ties which bound together the Celtic Chiefs and Clans. But in addition to all this we have to remember that in the Eleventh and Twelfth Centuries a great part of Scotland, which was gradually becoming predominantly Teutonic, was still at that time full of Celts, and that the early Charters recorded nothing that had not been long habitually known to them. We have seen that the Book of Deir, written in Buchan in the Twelfth Century, recorded the transactions of many centuries in the Celtic tongue. We hear that when Malcolm Canmore visited the plains or low country of Moray he had to translate the speech of the people to his Saxon Queen. Gaelic seems to have been certainly

understood in Aberdeen and Banff so late as the beginning of the Twelfth Century. The whole of the south-west of Scotland, from the Clyde to the Solway, the Province of Galloway, was in those centuries mainly Celtic, and the Charters of King David are often specially addressed to "Galwegians," as well as to French (Normans) and Angles. Down even to the close of the Seventeenth or the beginning of the Eighteenth Century we are told on good authority that even in the County of Fife so many of the poorer classes still used only the Gaelic language that it was an impediment in the employment of them south of the Forth.<sup>1</sup> It is clear, therefore, that in no part of Scotland, and to no one of its component races, were the powers and gifts conveyed by Charter anything but a new form of record for old and familiar facts.

On this point, however, we have one confirmatory circumstance which, if any were needed, would alone have the highest value. I have already referred to the fact that for one hundred years before the Anglo-Normans invaded Celtic Ireland, the native Chiefs and Kings had begun to give grants of land conveyed in the definite form of Charter. In the Latin Charter given by the Irish King of Leinster to the Monastery of Duisk we find fairly begun the same method of enumerating the things and powers conveyed in the possession of land which we have seen also beginning in the corresponding Instruments in Scotland. It was a method of enumeration which became amplified from time to time so as to include complete possession of everything upon the land which had come to be known as of any value in the use or enjoyment of it. This shows that among the native Celts of Ireland there was nothing new or strange in such kind and such measure of possession. The Irish Charter of the (approximate) date of 1160 gives the definition or enumeration in two separate forms. First, the

<sup>1</sup> Burt's *Letters from the Highlands*, ed. 1876, vol. i. p. 165.

lands are mentioned by name, and then these words are added, "with all their pertinents in waters, in pastures, in woods"—to which, again, are added in another line, referring to another portion, "with all its former pertinents, in rivers and in meadows and in groves."<sup>1</sup> The second of the only two Latin Charters which remain to us from Irish native Kings, and which is from the King of Limerick, of about nine years' later date (1169), shows a further development of the same kind of enumeration,—for it adds to the other words already quoted these further,—“in fishings and in mills.”<sup>2</sup> Both of these are in the highest degree significant of the individual appropriations connected with land, which in actual life and fact had come to be of use and wont among the Celts of Ireland. If vague Tribal rights had survived in anything, we might have expected to find them in respect to fishings and in respect to Mills—both of which were great sources of wealth in those early days, and one of which—Mills—enabled the proprietor to levy heavy dues on all the cereal produce of large districts of country.

Returning to the progress of Charters in Scotland, there is an interesting difference to be observed between two Charters, both given to ancestors of King Robert the Bruce. I have already quoted one of extreme brevity and simplicity of form, given by David I. to Robert de Brus, of certain lands previously held by a certain Randulph Meschin. But the same Sovereign gave to the same favourite Knight another more important Charter of the whole of Annandale to be held in Forest. This Charter also is so short and simple as to be interesting in the same point of view—as the mere record of transactions which in themselves were evidently so familiar as to need no elaborate explanation. It runs thus:—

“David King of Scots to all good men of

<sup>1</sup> *National Manuscripts of Ireland*, Part ii. No. LXII.

<sup>2</sup> *Ibid.* No. LXIII.



his whole land, French and English and Galwegians, greeting. Know that I have given and granted to Robert de Brus in fee and heritage, to him and his Heir, the Valley of Anan, in forest, on both sides of the river of Anan as the marches are from the forest of Selkirk as far as his land extends towards Stradwith and towards Clyde, freely and quietly as any other forest of his is best and most freely held. Wherefore I forbid that any one hunt in the aforesaid forest unless by his authority on pain of forfeiture of ten pounds, or that any one go through the aforesaid forest unless by a straight road appointed.”<sup>1</sup> (Witnesses.)

But some fifty years later, in the reign of William the Lion (1165-1214), the grandson of this elder Robert de Brus, obtained from that Sovereign a new Charter of Confirmation for the lands of Annandale, and this second Charter shows a very considerable advance in legal elaboration. Still, we see that it is elaboration of form and nothing more. It is a mere fuller explanation of all that had been meant and implied before. The enumeration is more explicit. The lands are granted “in wood and plain, in meadows and pastures, in moors and marshes, in waters, stanks and mills, in forests and trysts (markets), in hills and harbours, in ways and paths, in fishings and in all other its just appurtenances, as freely, quietly, fully, and honorably as ever his father or he himself most freely, quietly, fully, and honorably held that land of King David my grandfather, or of King Malcolm my brother—excepting the royal rights which belong to my Royalty, to wit, Treasure-trove,” etc. And all this was to be held for military service, expressly limited to ten knights, and with special abolition of a burden or exaction which had evidently been customary before—namely, that of “warding” the Royal Castles in the district.<sup>2</sup>

In this Charter we have very nearly in full

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XX.    <sup>2</sup> *Ibid.* No. XXXIX.

development all the essential features of grants of land throughout the Middle Ages. They were not all identical in their terms, because the scope and intention of such Instruments were not always the same. But the variations were just of the kind to show that in every case the forms of expression were not merely conventional, but were measured by the different meanings of the Donor in each case. Thus there were Charters which conveyed rights of grazing only, and not of the soil in Ownership. Again, there were grants of grazing without the grants of game, and *vice versâ*, there were grants of game and forest with express reservation of the rights of grazing, which are given separately and to different men. Some of these old records afford us curious glimpses of the condition of the country and of the habits and manners of the time. Thus the Avenels, Lords of Eskdale, had a quarrel with the Monks of Melros, arising out of the fact that to the Monks they had given by Charter rights of occupation for agriculture and for grazing in a forest over which the Avenels had kept only the exclusive privilege of the chase. The quarrel is composed by a fresh agreement before King Alexander II. (1214-1249), whose edict or award goes into great detail— forbids the Avenels to keep any domestic animals on the lands, or in the pursuit of game to break down fences or injure standing corn or cattle. On the other hand the Monks are to leave all Hart and Roe, Wild Boar, etc., and other game to the Superior, whilst a curious clause reveals the value then attached to the sources whence Hawks could be got for the favourite pastime of hawking. The Monks were not to cut down any tree on which Hawks had nests, nor were they to cut any such tree until the intention of the Hawks had been clearly ascertained, that they would not return in the year following. This clause included not only Falcons, but Sparrow-hawks.<sup>1</sup>

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XLIX.

This document is of some interest in several ways. More than one of our historians have observed that we hear no complaint in Scotland of any special Forest laws, such as constituted so great a grievance in England during the early Norman Kings. And this is true. There were no such savage penalties attached to the killing of Deer—nor is there any notice of districts of country once settled and then cleared for the purposes of Forest. In this document we see that without any special legislation, but only as a natural and usual incident of property in districts which were naturally covered with woods and real forests, the chase was valued as a pursuit, and game as a means of sustenance, and that special bargains were made in regard to it. On the other hand, we see that it was considered reasonable that mere leases or grants of game should not interfere with the increase of tillage or the necessary enclosure of land for cultivation. This is made still more strikingly apparent by a Charter given to the Abbey of Melros by Walter the Steward of Scotland in the Reign of Alexander II., in respect to their powers of pasturage and of improvement in the Forest of Ayr. In this document it is especially explained and declared that the Forest rights retained by the Superior were not to limit or restrict the Abbey in respect to the number of cattle they might find it possible to support upon the land, nor in respect to the arable cultivation of any part of them.<sup>1</sup>

But the greatest interest of all attaching to these documents is the evidence they afford of the tendency of all Charters and of all written agreements in that age to make the rights of parties clear, fixed, and definite. It is impossible to exaggerate the importance of this element at that time—all the more because the forms in which it appears are not mere technical forms or the work of skilled lawyers. They are of extreme simplicity, but at the same time of extreme directness. The detail about

<sup>1</sup> *National Manuscripts of Scotland, Part i. No. LIII.*



the Hawks' nests may seem childish to us now. But nothing could better illustrate the spirit in which the respective parties were to act towards each other in the exercise of rights which might conflict. And be it observed, all this was the mere interpretation of a contract which the Avenels had voluntarily entered into by a Charter with the Abbey, so that the edict of the King was not in the nature of a law, but in the nature of a judgment or decision. But it was a decision governed by the great principle which is at the root of all civilised jurisprudence that men must be kept to the fulfilment of their engagements, and that in the interpretation of these, both rights and obligations must be at once strictly, and at the same time equitably, construed.

This was a great period in the history of Scotland—the whole of this Thirteenth Century to the death of Alexander III., the last of the direct descendants of Malcolm Canmore and Queen Margaret—the last of our Kings who represented the old Celtic Monarchy in the male line. It was a manly, and a simple time—how manly, was soon to be evinced in the great struggle with the two Edwards of England—how simple, is evinced by all of the few documents of the time which have survived, and by the incidental circumstances which so often come out in them. And in nothing was it nobler, or more fruitful in good to come, than in this instinctive desire to record, and to fix, and to place under the highest sanctions, human and divine, all the old notions of right and wrong—all the old traditions of inherited authority and of recognised possession, which had been growing up for centuries, which had become the basis of society, and which needed only to be consciously recognised, and duly embodied in Instruments of legal force. It seems strange and almost incongruous to us, but it did not seem at all incongruous to those old Kings, that they should take a personal part in the minutest detail of this great process of record and of organi-

sation. In their own persons—on foot or on horseback—it was common for them to fix the boundaries of the lands they gave to the Church, by going round the marches, and once across the area thus defined. It takes us back pleasantly to those early days when we read King David saying to the Monks of Melros that he assures to them certain lands “as I myself, and Henry my son, and the Abbot Richard of the same church, have gone through, and gone round them, on Friday the morrow of the ascension of our Lord, the second year, to wit, after that Stephen King of England was taken.”<sup>1</sup> And this personal perambulation of the marches is in several cases recorded in the Charters. Causes were heard by the King in person; and in the dispute so equitably settled between the Lords of Eskdale and the Monks of that famous Abbey, which was so dear to, and so favoured by the Kings of that dynasty, we can well imagine the mixture of grave and gay—the sense of equity and the sense of fun—with which Alexander II. must have directed the compromise about the manifest intentions of Falcons and of Sparrowhawks, in leaving or in keeping to their old nesting trees.

It was in the midst of this rapid process of record, and of consolidation, and of progress, that Scotland suffered the most terrible calamities that can befall a nation—the extinction of an honoured Dynasty,—a disputed succession,—desolating invasions from a foreign army,—and lastly, a long and desperate struggle for national independence. Counting from the death of Alexander III. to the Battle of Bannockburn, this unsettled and bloody time lasted for twenty-eight years, and if we count to the final Treaty acknowledging the Independence of Scotland, it lasted forty-two years—from 1286 to 1328. As a matter of course there were immense changes made in the holders

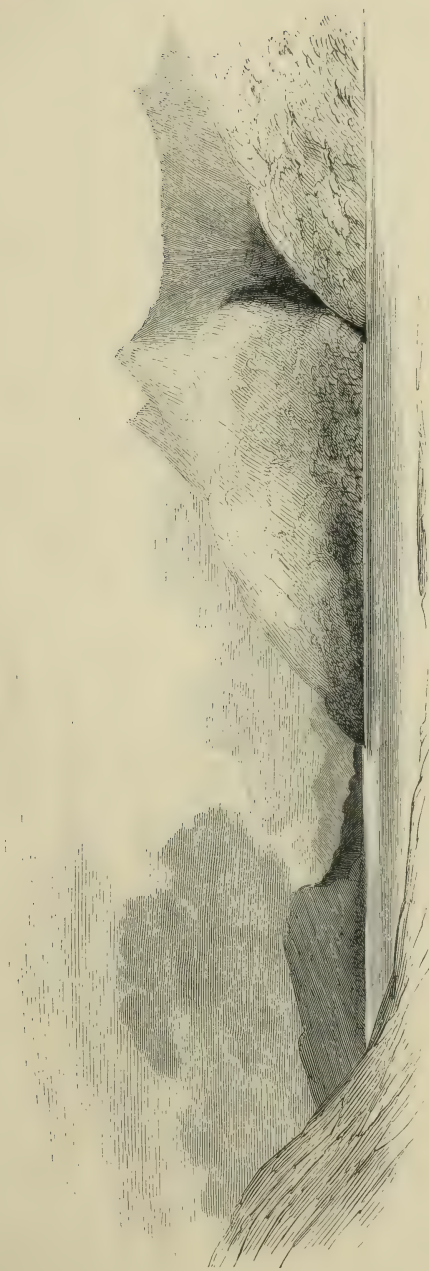
<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XVII.

of landed property in consequence of the contest. Barons, and Knights, and Chiefs who in the different divisions, and among the still differing races of the Monarchy, had been loyal to the cause of national unity and independence—these had to be rewarded. Those, on the other hand, who were disloyal to that cause, had to take the consequences of their defeat. It is not too much to say that a very large part of the land of Scotland changed hands, whilst another large part remained indeed in the same families in which it had been for centuries, but was entered for the first time in the great Charter Roll, which recorded under a new and a glorious sanction the ancient inheritances which had been won by services too old and too continuous to be recorded, but which perhaps had been not less important to an earlier condition of society.

This comes out very clearly in the earliest extant Charters connected with my own family. King Robert the Bruce was not likely to forget the loyal Knight of Lochow who had been his close companion throughout his memorable adventures between 1306 when he assumed the Crown, and the great battle in which he vindicated that assumption before the world. The King had good reason to remember Lochow. It was in the precipitous pass at the foot of Ben Cruachan, where that fine mountain falls into the gorge through which the Lake finds its outlet to the Sea, that he had one of the fiercest and most dangerous contests of the war. The Island and Western Clans under the Celtic Chiefs, descended from Somerled, had with their characteristic traditions from the Sea, occupied the Lake<sup>1</sup> with galleys, and the steep slopes of Cruachan with men. Nothing but personal strength and

<sup>1</sup> The narrative commonly runs that the Galleys of the Islanders were on the Sea. But the Sea is several miles from the site of the Battle. No doubt the Lord of Lorne had dragged up his Galleys from Loch Etive, and launched them on Lochow, close under the Pass to be defended.





BEN CRUACHAN AND RAVINE. SITE OF BATTLE BETWEEN BRUCE AND LORDS OF LORNE IN 1308.



courage, seconded by the only strategy which such ground admitted of, brought the little band of Bruce victoriously through that encounter; and so desperate was it at one moment, that the King was as nearly as possible overpowered,—his plaid was torn from his person—the brooch by which it was fastened was carried off, and remains to this day in the possession of the gallant Chief of the Clan Macdougall in the Castle of Dunolly. It was not, however, till after the death of his brave companion in arms, Sir Niel Campbell, who did not long survive the Battle of Bannockburn, dying in 1315, that the family seems to have cared to have that new form of title which consisted in a bit of parchment. The King had given to Sir Niel his own sister, Lady Mary, in marriage, and although the young Knight who succeeded to the Barony of Lochow was not his own nephew, he was the eldest son of his old friend, and the stepson of his sister. Probably it was a pleasure to the King, almost as much as a favour to this brave and impetuous youth, to give a writing under his own hand, “confirming” those ancient possessions in the West which had been so long held, and so bravely risked in his cause. In this case the words must have been more than form which were addressed by “Robert, by the grace of God, King of the Scots, to all good men of his whole land, greeting;” on behalf of his “beloved and faithful Colin, son of Niel Cambel, Knight”—confirming to him “the whole land of Lochow, in one free Barony, by all its righteous metes and marches, in wood and plain, meadows and pastures, muirs and marshes, petaries, ways, paths, and waters, stanks, fish-ponds, and mills, and with the patronage of the churches, in huntings and hawkings, and in all its other liberties, privileges, and just pertinents, as well named, as not named.”

But beyond necessary inference, the simple brevity of these old Charters leaves much to be understood, and it is sometimes only by pure acci-



dent and by incidental allusions in later Instruments that we find out how purely they were very often Instruments of mere record and recognition in respect to facts, to rights, and to powers which were then of very ancient standing. This comes out very strikingly in a later Charter granted by David II., son and successor of Robert the Bruce, to another member of the Cambel family in 1368. In this document we have an express reference to rights which had been acquired by the Celtic Chiefs, under their own system, and by their own pre-eminence among their own people: for this Charter confirms and secures to Gillespie (Archibald) Cambel "all the liberties and customs" which had belonged to a progenitor, who is designated by his Celtic patronymic of Duncan Mac Duine. Now this Duncan appears to have flourished about 150 years earlier, in the reign of Alexander II., and he is expressly referred to as having been then already in possession of all the "liberties and customs" of the Barony of Lochow, as well as of others not specified. But this is not all—it is not even the most significant part of the reference. For in the use, in a formal Charter, of the name "Mac Duine," we have clear historic evidence of the truth of much older traditions. We are carried back to times when this patronymic of Mac Duine must have arisen among the Dalriadic Celts (who were a conquering and colonising colony from the "Scots" of Ireland) in the period between the Fifth and the Seventh Centuries.<sup>1</sup>

From the War of Independence and the death of King Robert the Bruce, in 1329, we are in the full light of history, and are in possession of an uninterrupted series of Charters for the space of 500 years down to our own time. There is a perfect continuity of character, and a complete universality of application to every part and Province of the Kingdom. There was no distinction whatever be-

<sup>1</sup> *Celtic Scotland*, vol. iii. p. 79.

tween the Lowlands and the Highlands. The only Celtic race which in the Fourteenth Century was still noticed as representing a separate portion of the Kingdom, was the Galwegians—the people of the south-western country of Galloway. The Gaelic population of the Highlands were not only included in the “Scots,” but were the first owners of the name. The earliest and the most despotic of all the forms of native Feudalism had been developed and had long been firmly established among them. Even the more civilised form of written Charters had been adopted by the more civilised Lords of the Isles, and the Mackenzies, Macleans, and Mackintoshes had accepted and submitted to the new order of things which confirmed, but at the same time regulated their powers.<sup>1</sup> Accordingly there is not the smallest difference between the Charters granted in different parts of the Kingdom from the Tweed to the Thurso, and from the mountains of Applecross to the headlands of Buchan. And no wonder—for everywhere almost the Celts had been the original population, and the very names of the lands disposed of were often as purely Celtic in the Lowlands as they could be in any part of the Highlands. Many of these have long ago entirely disappeared, and it is not without surprise that in many of the earliest Charters of lands in districts which have long been purely Teutonic, we meet with crowds of names as purely Gaelic as the existing names in the centre of the counties of Argyll and Inverness.

We see the same absolute unconsciousness on the part of the Sovereigns that they were doing or giving anything that was new when they gave grants of land anywhere—in any and in every portion of their Kingdom. The whole Valley of Douglas, sixteen miles in length from Tinto to Cairntable, was conveyed to the good and brave Sir James Douglas by Robert the Bruce in a Charter in the briefest form. The wild coasts and mountains

<sup>1</sup> Burton's *Hist. of Scot.*, vol. iii. p. 95.

of Gareloch on the mainland opposite to Skye had been already disposed of in precisely a similar form by Bruce's predecessor, Alexander III., in 1272, to a Celtic Chief, who, again, had previously held under a Charter from the Celtic Earl of Ross. And when, a little later, Charters became more extended in form, and purported to specify a little more expressly that which they conveyed, it almost seems as if all the resources of language were exhausted to enumerate and include complete rights of possession and disposal, of every kind and degree, over every kind and description of land embraced within the ancient and well-known boundaries of the Lordship or of the estate. This came as a matter of course everywhere, but perhaps in the very nature of things it would have been less possible even to conceive of any exception as regards what is called "waste" land in the Highlands than in the Lowlands. Nowhere, indeed, in these Islands, have there ever been lands in the state of "Prairie"—that is to say, great areas of virgin soil, unencumbered with wood, and ready for the plough, without any process of reclamation. Everywhere in Scotland the largest part of the country was covered with natural forests, and with dense scrubby woods, which are even more difficult to clear and to eradicate; whilst elsewhere little but moors and bogs varied the surface under conditions even more intractable for agricultural operations. But in the Highlands, if Charters had given nothing under the full rights of individual Ownership, except the cultivated or even the cultivable land, there would have been nothing given at all. That which in England would have gone under the name of waste was practically the whole surface of the country. Accordingly, in no Instrument of the Middle Ages is there the smallest consciousness even shown that such distinctions could be drawn, or that such a question could emerge.

On the other hand there arose, as I have already



shown, an instinctive desire to record and to specify, and to define, all that by immemorial usage, and the habits and conditions of life in that age, had been held, used, and enjoyed, as of the essence of the Ownership of land. "With all its just pertinents" are the simple words usually added in the earliest Charters to the name of the property conveyed. And when these "just pertinents" came to be set forth at length, and separately named, they are always so named, not as novelties, but expressly as the items of ancient usage. The most elaborate enumeration I have observed is one contained in a Charter of Confirmation granted by King Robert the Bruce to Malcolm Earl of Lennox, and dated July 14, 1321.<sup>1</sup> But this Malcolm was the fourth Earl who had been then in possession of that great Earldom, the larger part of which was at that time purely Celtic, and the Charter, as usual, refers to it and to its "just pertinents," as enjoyed from a former age. The enumeration is only remarkable as containing such curious expressions as "infangandthefe and outfangandthefe," and as including such details as the "Eyries of Birds," along with the more substantial advantages then arising from the escheats and fines attaching to feudal dues and to the Baronial Courts in the exercise of criminal jurisdiction. To the subject of the Courts of Heritable Jurisdiction I shall return in a later Chapter, only observing here that in this as in other things the early Charters were only granting under definite and legal sanction the irregular but very ancient powers of jurisdiction which were inseparable from the immense and supreme authority exercised by early Chiefs and Leaders among all the Aryan races.

There is, indeed, one remarkable addition to the list of enumerated items, which appears to have been first inserted in the later years of King Robert the Bruce. That addition consists in such words as these (for there is some variation), "with its tenants

<sup>1</sup> *Book of Lennox*, by Dr. W. Fraser, vol. ii. pp. 19-21.

and tenandries, and service of free tenants," to which again are added, in some cases, such further words as these, "with all the native men of the same," that is, the Bondmen. Before the close of the century in which King Robert the Bruce died, about 1390, this last item dropped out of the account. The Bondmen had either disappeared, or had become so unimportant as not to be worth separate mention. On the other hand, "tenandries, tenants, and services of free tenants," survived through centuries, becoming the regular conventional phrase under which all the holdings, farms, and revenues of an estate were included, whether these revenues were derived from sub-feus, or from leases, or from yearly holdings, or from other forms of tenure which are now lost or are indistinguishable.

But through all mere developments of wording, and redundancies of expression, that which is of most interest in all those Charters is the undying witness which they bear to the one original idea of abolishing all the old indefinite and arbitrary exactions of Celtic Feudalism, as it had become established everywhere before the days of written documents. Certain definite amounts of military service were commonly provided for in the earlier centuries; but this provision is always followed by words declaring it to be in full satisfaction and substitution "for every other service or custom or exaction." Among the instruments published in *The Book of Grant* there is one highly illustrative of the fear which had arisen of demands or dues of this nature which were indefinite. A certain Knight, Sir Gilbert of Glenkerny, who held his lands by Charter from the Earldom of Strathearn, had been induced by friendship or political sympathy to serve personally, and with his following in the wars of the disputed succession, under Malise, who then held that Earldom. But this service had not been due under his Charter. In June 1306, therefore, fearing that his actual service might be construed

as having been feudal service, he procured from the Earl Malise a Deed of acknowledgment as to the true nature of the assistance he had rendered. In this new Charter Earl Malise formally declares that neither he nor any of his heirs should ever claim or pretend that such service should be pleaded as customary, or should be quoted as affecting in any way the original conditions of Sir Gilbert's tenure.<sup>1</sup>

But as the great Earldoms and Baronies of the Thirteenth and Fourteenth Centuries became broken up into smaller Estates, the practice became general to commute all military services into fixed amounts of money. It was an inevitable result of advancing civilisation and of settled government that the importance of many civil obligations became much more prominent than those connected with perpetual fighting. Society ceased to think continually of bows and arrows and of coats of mail. It wished to enjoy life, and not merely to defend or to secure it. In connection with this change a new form of expression and new conditions of tenure came into use. Lands held under Charter for a fixed annual sum of Feu-duty were said to be given and held "in Feu-farm"—that is to say, the tenure was that of Feu, or Fee, but subject to an annual payment, which came under the old designation of "Ferm"—or Rent, from the Latin "*Firma*."<sup>2</sup> In a very large number of cases, soon becoming the great majority, the annual payment being measured in a fixed amount of produce, either became purely nominal, or at least was very small; whilst still later the fashion set in of making the grants virtually free—with nothing left of the ancient Servitudes except some Token, often highly poetic and even sentimental. It was frequently specified that these Tokens were to be offered at and on the altar of some Church dedicated

<sup>1</sup> *Book of Grant*, vol. iii. p. 8.

<sup>2</sup> Skeat's *Etym. Dict.* In Low Latin the word means *tribute*. A Saxon word "*feorme*" seems to have the same meaning.



to a Patron Saint, or on some one or other of the great festivals of the Catholic Church. The nature of these Tokens is sometimes very whimsical—such as a few pounds of wax, or a little cumin. Sometimes they are purely emblematic—as in the case of an Arrow. Sometimes they breathe that common love of Nature which ever increases with the advance of civilisation. The presentation of a red rose is a common Token ; whilst in one Charter we have the beautiful expression of a tender reverence in the reservation of a chaplet of roses, not red, but white, which was to be presented to the Superior every year on the Feast of St. John the Baptist.<sup>1</sup>

It may perhaps surprise some persons to be told that in Scotland at least we are still in “The Age of Charters.” Not only are almost all Estates held on tenures dating back to Charters of the oldest form, but new Charters are being granted every day which, both in form and in substance, are the lineal descendants and the living representatives of the Instruments which were executed eight hundred years ago. They constitute the favourite tenure of all land acquired for the purposes of building and of residence. Most of the Towns in Scotland, and almost all the rich and comfortable villas which spangle the shores and estuaries of our great rivers, are built upon the tenure conveyed in Feu-Charters. In these Instruments the continuity of phrases from the earliest times is remarkable. The ceremonies once necessary for the giving of Possession—the symbolical acts such as handing over actual bits and portions of the soil—all these have been abolished—although some of them survived until a few years ago. But the fundamental principles, and some of the dominant expressions, are the same. The Proprietor hands over to the new Owner—the Vassal in ancient and still legal language,—the Feuar in modern parlance—the designated area of land “in feu-farm, fee, and heritage for ever,” for

<sup>1</sup> *Book of Lennox*, vol. ii. p. 64.

payment of the Feu-duty, and for performance of the other stipulations which follow. Next, the Proprietor binds himself to free and relieve his new Feuar of all feudal dues and casualties which may be payable to the Over-Lord, or the Superior from whom the ultimate Title may have come—and this “for all time coming.” Lastly—and this is very curious—the Proprietor, who now becomes only the Superior of the Feuar, binds himself to accept one fixed payment at some certain definite interval of years, in lieu of all the old customary feudal fines and “casualties.” This fixed payment generally consists in a double Feu-duty for one year, at intervals of from nineteen to twenty-five years. The doctrine of the law is that every Feu so granted constitutes full and free Ownership, and that all restrictions and restraints upon it must be very clearly and distinctly provided for in the written words of the Charter. Moreover, there is a presumption against even express restrictions where these have not been continuously and consistently enforced. Some decisions adverse to the enforcement of certain restrictions on Feuars in particular cases, have been hailed by ignorant writers as happy limitations upon over-strained rights of Property. But those decisions have all been, on the contrary, founded on the very opposite doctrine of the rights of Ownership construed in the very highest sense. It is the Feuar who has now become the possessor and representative of these rights: and the doctrine of the Courts is that no restraint upon them can be allowed which does not rest on the clearest evidence of deliberate contract, and of acknowledged obligation. In this as in other matters the spirit of Judicial interpretation in enforcing the strictest rights of property, has laid the best and the only secure foundation of popular rights. The number of Feuars has increased enormously. Popular sympathies are with them, and the Courts of Law, when insisting on the completeness of their

Ownership, subject only to stipulations the most definite and express, have been insisting on the same principle of unrestricted and undivided Ownership which also ruled the case of the largest Baronies and Earldoms. Thus the most ancient presumptions of law which have affected great Estates for many centuries have equally in our own days established the most popular of all the tenures of land in Scotland. Not only are feus taken more and more largely by all ranks and classes, but the Feu-duties which they pay for the "Fee-farm" are among the most favourite investments for various Charitable and Public Funds. Thus the fundamental principles of the first written Feudal Charters have not only lain at the root of the civilisation of Scotland for 800 years, but have lent themselves without one break in a perfect continuity to the latest developments of modern life.

It is not unimportant to remember that the early age of Charters for the tenure of land was also the early age of Charters for the tenure of Municipal Privilege. Moreover there is the same clear evidence in this case as in the other, that the first grants of Municipal Privilege were acts of confirmation and of record rather than acts of original institution. There are references to Burghal communities of a much earlier date, and it has even been contended that in the southern parts of the Kingdom some of them had survived from Roman times. It is at least certain that through the same invaluable channel of the Latin Church the memory and the tradition of them had never been extinguished. When, therefore, the Kings of the Canmore dynasty gave Charters to some Burghs in the most Anglo-Saxon parts of Scotland, there are the same express references to older times which in the case of land Charters refer us back to liberties and possessions which had been of old. There are indeed some instances in which new Towns or favourite villages were for the first time erected into Royal Burghs; but the date of existing Charters is no indication



in itself of such an origin. Thus in the case of Dundee, one of the most important of the old Scotch Burghs, the Charter granted by Robert the Bruce in 1327 was the result of a special inquiry<sup>1</sup> which had been instituted by that Sovereign in 1325, into the rights and liberties of the Burgh in the times of his predecessors on the throne of Scotland, and these rights and liberties having been ascertained, were confirmed, and were definitely recorded in the new form of Instrument which had risen into the highest rank of legal value.

There is, indeed, connected with this subject, one very curious indication of the tendency of that age towards the making of clear definitions in respect to rights which had previously rested on usage only. This indication is afforded in one of the earliest examples which have come down to us of legislation in Scotland. It is a short Act passed in the reign of William the Lion, in favour of what was then called the "freedom" or the "liberty" of Burghs. Popular "freedom" did not then consist in what we understand by the word now. On the contrary, a "liberty" then meant always, as applied to Burghs, some exclusive privilege in the form of a trade-monopoly. It cannot be too often repeated that the system which we now call Protection was the system on which all our great trading communities were founded, and in which they were brought up and nursed. It was not the class of landowners, but the class of traders and mechanics, who invented the close restrictions upon the freedom of industry which were for centuries considered the very foundation of all possible prosperity in Burghs. It would, indeed, be more accurate to say that they were not invented by any one, or by any section of the community, for they were, like all the other laws of a rising people, in harmony with the general sentiments and instincts of the time. One of the earliest of those restrictions was

<sup>1</sup> *Charters, etc., of Dundee*, pp. 8-9.

upon free trade in wool and in skins. Even in those early centuries the trade in wool had become the most valuable of all domestic industries; and consequently one of the earliest "liberties" accorded to the Burgesses of chartered Towns was the right of prohibiting all men but themselves from engaging in this trade within their own boundaries. And this did not mean the boundaries of their own Town. It meant the boundaries of some large territory lying round about, which for this purpose was annexed to the Burgh as the area over which the monopoly was to prevail. It is in connection with this idea of popular "freedoms" and rights that we have William the Lion enacting in his Parliament or Great Council of the nation, about the year 1214, that all the landowners, great and small, clerical or lay, within those Burghal areas of monopoly should be absolutely subject to it, to such an extent that they were not to be free to dispose otherwise of the most valuable produce of their own estates. Nothing could be more precise than this record and definition of what usage appears to have established in connection with these Burghal "freedoms." "No Prelate nor Churchman, Earl, Baron, or secular person, shall presume to buy Wool, Skins, Hides, or such like merchandise, but that they shall sell the same to merchants of Burghs within whose shiredom and liberty the owner and seller of such merchandise does dwell."<sup>1</sup> In the case of the Burgh of Dundee this privilege was found by the "trusty and faithful men," to whom the inquiry was committed by King Robert I., to have extended over the whole "Sheriffdom of Forfar," and in the new Charter accordingly the same wide boundaries of monopoly are expressly confirmed.<sup>2</sup>

In these strange and almost grotesque provisions of the earliest extant laws and Charters of the Scottish Monarchy, in favour of Trade monopolies in the hands of Burghs, we have a very clear refutation

<sup>1</sup> *Acta Parl. Scot.*, vol. i. p. 61.

<sup>2</sup> *Charters, etc., of Dundee*, p. 10.

of that most vulgar of all historical errors which attributes the doctrines then legally established to the exclusive and selfish interests of one particular class, and that class the Owners of land. We have, indeed, very little knowledge in detail as to how the Great Councils of the nation were then summoned, or how they were composed in the reign of William the Lion. In all probability there was but little formality either as to the one or as to the other. There is not even uniformity in the few words of preamble with which those short and simple laws were passed. They are enacted sometimes with consent "of Bishops, Abbots, Earls, Barons, and Thaners, and all the community of the Kynryk" (kingdom); sometimes, more shortly, "by counsel of his Kynryk" only—sometimes "by counsel of the community." But that which we really do know does not depend on these archaic prefatory forms. It depends on the persistent memory of the Scottish people that this was the happiest—the formative time—in their national history—the time to which later documents all referred as the highest fountain of authority and of legal tradition—the time when all the races and all the classes of the growing nation were being moulded into one government and one people.

The very absence of detailed information as to the manner in which these old laws were enacted, speaks volumes as to their real nature and origin. They were the mere outward expression of ideas and opinions which had long been universally accepted. And crude and rude as we may now think the provisions for Protection and monopoly in matters of Trade, it is probable that they did really promote and foster the beginnings of commerce, and did certainly determine the seat of them in particular localities. That they did this at the immediate cost of some loss to the owners and farmers of land is certain. This is proved, and it is all that can be proved, by the doctrines of Free Trade. Nor is it probable that



this cost was wholly unknown to those classes at the time. The prohibition of direct sale to foreign merchants indicates clearly enough that if they had not been prohibited, such foreign merchants would have visited the country, and would have given higher prices than the merchants of Berwick or Dundee. But the general sense of all classes seems to have been instinctively in favour of Protection—on the simple ground that it was assumed to be a national object to establish and to encourage, even at some cost, native merchants, and native mercantile communities. Probably this assumption was made without argument or conscious reasoning of any kind, and almost certainly without any attempt to calculate what the extra cost might be to the other classes of society. It is certain, however, that the spirit of monopoly thus planted in the Burghs was continued and developed in these communities until it almost stifled the commerce which it aimed at protecting. The Trade-Guilds became most tyrannically exclusive, and it was not until almost our own time that the evils attending them became obvious to all.

It was most fortunate, and in some respects most singular, that no similar spirit, and no similar legislation, arose in our early history in respect to dealings in land. The blunder is very gross indeed which confounds property in anything with monopoly in dealing or exchange. They are not only different, but they are the antithesis of each other. Monopoly consists in the exclusion or limitation of Free Exchange. But Free Exchange depends absolutely on Free Possession. Men cannot exchange with each other freely anything which they do not possess fully. They cannot give to another that which they do not hold themselves. Therefore, that recording and defining process, in respect to the fulness of Ownership, which we have seen to be the basis of all written Charters, was the essential preliminary and condition of Free Exchange in respect to land. In acknowledging, and in giving a legal form to rights

of possession which had been long acquired, our early laws made those rights easily transferable from one man to another. And on such transfers there was no restriction. The idea of Entails was of much later date. In the early centuries of the Scottish Monarchy the right of alienation was recognised as co-extensive with the right of possession. Moreover, this universal right of alienation corresponded with an equally universal right of acquisition. It was a right which had no limits as regarded any particular classes of men, whether distinguished from others by birth, or (as in the case of traders) by pursuits and avocations. All men who owned land could dispose of it, not to particular classes only, but to all other men who could buy it. In this respect the Feudalism of our Island avoided that element of monopoly which was developed in the Teutonic Feudalism of Germany. In Prussia, for example, particular areas of land could only be bought and sold among certain restricted breeds of men. One set of acres belonged to and could only be held by the Peasant class—another set of acres belonged to, and could only be held by the class of Nobles. Free exchange in Land was rendered impossible by these barriers of monopoly, properly so called. Some years ago ignorant men were calling in this country for some imitation of the land reforms of the great Prussian ministers Stein and Hardenberg.<sup>1</sup> They did not know that one main object of those reforms was to establish in Prussia that very system of full property,—of undivided Ownership,—and therefore of free exchangeability, which had been established here for centuries, and was indeed of immemorial antiquity. The German statesmen were driven by the utter ruin which restrictions on the full and free Ownership of land were bringing on the country, to aim at, and ultimately to effect the complete abolition of all such restrictions. But they were brought to see this not without a struggle.<sup>1</sup> They clung for

<sup>1</sup> *Life of Stein*, by Professor Seeley, vol. i. ch. iii.

a time to the artificial Protection of Peasants' land—for the sake of keeping up the military population. But once they had entered on the path of enfranchisement they found that they could not halt short of the only conclusion to which it logically and practically led. The bondage of men to the soil had to be abandoned, and the correlative bondage of the soil to one class of men, had to be abandoned also. Two other correlatives had to be substituted for these: one was—full and unrestricted Ownership; the other was the free transfer or saleability of that Ownership to men of all classes and degrees. All this had been effected in Scotland more than 500 years before. Bondage to the soil had been killed out with Serfdom. Ownership had been redeemed from arbitrary exactions—had been made as full and definite, and undivided, as words could make it. It had been conveyed in forms which lent themselves to easy transfer, and to the security of a multitude of subordinate transactions. This was the recording work—in so far as they did any work at all—of the early Charters. Those who held them immediately began to alienate, to sell, to sub-feu, to lease, and in many complicated forms to dispose of, to other men, that Ownership which is the essential basis of Free Exchange of every kind and of every name.

There never was in Scotland any restriction either as regarded the classes of men to whom Charters were given, or as regards the classes to whom derivative tenures could be sold or granted. To the Burghs themselves valuable lands were sometimes granted by these Charters as well as various dues and lordships over landed property. These constitute to this day, portions of the "Common Good" of various Burghs, and such estates have been managed by the respective Corporations on precisely the same principles on which land has been managed by other Owners.

We must look back then on the Age of the first Charters as having laid the foundations of national



progress on the firm ground of ancient rights and obligations so clearly and accurately defined as thereby to be made the subjects of Free Exchange. The exceptional privileges given to popular Bodies, constituting in their hands exclusive trade monopolies, were at least accessible to as many as could place themselves in the position of Burgesses by residence or otherwise. They were, at all events, in accordance with the national sentiment of the time, and the Charters under which they were formally secured took their place among the Institutions which welded together the various classes and interests of the State.

All of these classes and interests had been taught and drilled to feel and to act together in and by the War of Independence. The Clergy had taken an early and an honourable part. A convocation of the Church, held at Dundee, had been the earliest public Body to espouse the cause of Bruce. The Towns and Burghs had co-operated in hostility to the scattered English garrisons. A mere handful of Knights had indeed begun the war, but each small success had rallied others to the standard, and in so far as popular sentiment was operative at all in those times, it spread by contagion among the military classes without distinction of origin or of race. Almost all parts of the Kingdom sent their contingents to the little army which won the day at Bannockburn. Of the four Divisions or "Battles" into which that army was arranged, the one which Bruce himself commanded was composed of the men of Carrick, of Argyll, and of the Isles.<sup>1</sup> These must have been almost purely Celtic, yet we hear nothing of the peculiar, impetuous, but undisciplined and unsteady methods of fighting which afterwards became so celebrated as characteristic of the Highland Clans. Indeed from the position assigned to them by the King, round his own person, and held as a Reserve, it is clear that they must have been

<sup>1</sup> Barbour's *Bruce*, bk. viii. l. 330-45.

considered among the very best and most highly disciplined troops at his disposal. It would almost seem as if the military genius of that remarkable man, and the necessities of rigid discipline which his long and arduous contest imposed upon him, had enabled him to anticipate these modern days when Highland regiments have been not only the most dashing, but the steadiest and most enduring among the battalions of the British army. For, of this amalgamating power exercised by Bruce, we have another example which is too little remembered. Bannockburn, as one of the Decisive Battles of the World, has obliterated the memory of another battle, which, as a feat of arms, was hardly less memorable. It is almost forgotten now that, eight years after Bannockburn, in 1322, King Robert invaded England, and again routed Edward II. in a pitched battle in his own Kingdom, in the heart of Yorkshire. In this battle of Byland Abbey,<sup>1</sup> it is recorded that the critical operation of the day, in the carrying of a steep hill, was committed by Bruce to the same Western and Celtic soldiers who had been under his own special command at Bannockburn, and to whom, in the heat of this new day, he had recourse to carry the high and craggy ridge which looks down on the Vale of Pickering. The nature of this manœuvre, executed under the good Lord James Douglas, is specially likened by the historian to that by which the King had defeated the Chief of Lorne on the steep sides of Ben Cruachan in 1307.<sup>2</sup>

We must read all these events together. They show the complete amalgamation between all parts of the Scottish nation which had been going on for a long period, and which is not one whit more conspicuous in the Charters than in the military and political transactions of that age. Neither in the tenure of land, nor in rank and service on the field

<sup>1</sup> Byland Abbey, a Cistercian Monastery, founded in 1177. The Ruins still remain, situated in the Parish of Coxwold, North Riding.

<sup>2</sup> Barbour's *Bruce*, bk. xiii. l. 230-40. Tytler, vol. i. p. 328.

of battle, was there the slightest difference made in those grandest days of our history between the Lowlands and the Highlands. In accepting the new written grants, which were given by King Robert to all who stood by him in his struggle, the Highland Chiefs of Argyll, of Kintyre, and of the Isles, stood on exactly the same footing as the great Earls of Ross and of Moray, of Lennox and Strathern, or as his own family had stood for some generations with reference to Annandale and Carrick. His Charters, like those of his predecessors, and those of his successors, were nothing more than the sign and seal set by a new Authority upon a long continuity of Leadership, and upon a long continuity of Possession of which that Leadership had been the real origin, and of which it had always been the real title and guarantee. During centuries of a growing civilisation, that Leadership had supplied whatever elements there were of Authority, of Security, and of acknowledged Obligation, in the nascent organisation of the State. Those who held that Leadership had originally won it by superior qualities of head and hand; and through many rough and troublous generations they never could have kept it except by a continuity of powers as hereditary as the continuity of names.

Nor at any time during the five or six hundred years between the dawn of Celtic history in Scotland and the date of these new Charters, had these leaders of the Clans and of the people rendered a better or a nobler service to the country than in that which secured to them those new confirmations of old rights from King Robert the Bruce and from his descendants. Men are apt to speak very thoughtlessly now of the origin of property which has been acquired by the sword—as if the sword represented nothing but brute force and predatory violence. They forget that military service and military success have often required the very highest faculties of Head and Heart and Hand. And never, perhaps,



has this been more true than of the service which was rendered to the Bruce by the Chiefs and Barons who fought with him. The contest in which that Sovereign won the independence of his native country against all the Chivalry of England with no small aid from the Chivalry of France, was a contest memorable for all time. Perhaps we can hardly realise fully now all the qualities of courage, tenacity, and patriotism which were exhibited by those who stood by The Bruce during all the vicissitudes, discouragements, and almost despairs of that deadly struggle. And when at last the fate of Scotland came to be decided on that famous field in the narrow valley of the Bannock, we can hardly realise how stout the hearts must have been which clustered round the Standard of the "Bored Stone."<sup>1</sup> It is said that the English cavalry alone exceeded in number the whole army of the Bruce. Their furious charges had to be met by a manœuvre of the infantry with pikes, that seems to have anticipated the formation of squares with the front rank kneeling, against which the French cavalry "stormed themselves away" at Waterloo.

It is impossible, even now, after the lapse of more than 570 years, to read any account of that battle—or still more to visit the field,—without emotion. For we must remember all the political and social questions which depended on it. For good or for evil, tremendous issues follow on the gain or on the loss of national independence. Where there is an inferior people—or a people which has travelled far on a wrong road—it may often be well that they should be conquered. The mixture of a stronger race, and the bringing in of better laws, may be the best of all results. But where the seeds of a strong national civilisation, of a strong national character, and of intellectual

<sup>1</sup> A stone which remains to this day on the Field of Bannockburn, upon which the Standard of the Bruce was planted in the battle.

wealth have been deeply sown in any human soil, the preservation of it from conquest, and from invasion, and from foreign rule, is the essential condition of its yielding its due contribution to the progress of the world. Who, then, can compute or reckon up the debt which Scotland owes to the few and gallant men who, inspired by a splendid courage and a noble faith, stood by The Bruce in the War of Independence, and on June 24, 1314, saw the armies of the invader flying down the Carse of Stirling? Some of these men were the descendants of ancestors who had held the same relative place, and had rendered the same relative service in all the older contests which had built up the Kingdom and the Nation—which had united under one Crown the divided dominions of the Picts and Scots—which had secured the Lothians for Scotland, and had established the boundaries of the Kingdom at the Tweed.

Never, perhaps, has there been a more honourable origin for the tenure of land, than that which was consecrated afresh by the Charters of the Fourteenth and following Centuries in the hands of those Chiefs in Scotland who had then already won and had already held them for many generations. In some cases the same lands are to this day owned by lineal descendants of the men who fought with Bruce. In others, derivative tenures coming from those Charters as their legal source, have been the subject of inheritance, of exchange, and of sale during the course of five hundred years. And during all these centuries it can be shown that the successive holders have continued to be the leaders of the nation in the ever opening and widening fields of action on which all the triumphs of an advancing civilisation have been won. In their hands was vested the only power which in those rough ages could maintain any civil peace or political organisation. It was they who introduced the Anglo-Saxon culture,—and endowed the Latin Clergy,—and brought in the

Roman Law ; and it was, as we shall see, through their wise and gradual legislation that agricultural husbandry was raised to the dignity of a Profession, and was provided with that legal security which could alone enable it to become an Art.



## CHAPTER III.

### THE AGE OF COVENANTS.

WE now come to that other great branch of historical inquiry which concerns not the Ownership but the cultivating Occupation of the land. At first sight, and looking only to the surface of things, it might seem as if the effect of Charters, however favourable to those who got them, might be unfavourable to those who had only subordinate interests in the soil. And so it would, if Charters had been what we have seen that they were not. If the powers and attributes which they recognised as belonging to Leadership over men, and to Ownership of land, had been new inventions, introduced for the first time by a foreign and a conquering race, they might have, and probably they would have, worked injuriously. But as those powers and attributes were nothing of the kind,—as they were, on the contrary, purely indigenous and of strictly native growth, they worked, and were worked in the spirit of the new Form, and of the new embodiment which had come to them with the increase of legal knowledge, and the progress of civilisation. In this distinction lies the whole difference between life and death in all human Institutions. For in them the same law prevails which in organic bodies is called the “correlation of growth”—that law in virtue of which all healthy developments in one member are surely, though often invisibly, accompanied by corresponding and closely related developments in many surrounding parts. In secrecy and in silence, through all the

centres of influence and all the germs of growth, the Formative Energy which governs and directs the whole, builds up along a thousand lines the parallel structures which are needed for the harmony of Life.

Nor, in the case before us, is there any mystery as to the nature of the processes which ran below and above, and alongside of each other, in the Age of Charters. It is true that these Instruments imposed no limits on the fulness of that Possession which they were intended to convey. On the contrary, it was the special object of them to make that Possession as full and secure as possible. But it is equally true that the fundamental conception of all Charters was that of legal definition, and the substitution of fixed and definite obligations for liabilities which were incalculable because they were purely arbitrary, casual, and lawless. This fundamental conception, in giving birth to Charters, gave birth at the same time, and of necessity, to other Instruments of a like nature, which were derivative and subordinate. It inspired the whole series of transactions which were in any way related to the same subject. Men who accepted from the Crown, or from great Subjects of the Crown, Charters of land on the emphatic condition that these lands were to be free from the ungoverned and ungovernable usages of Celtic Feudalism—"the exactions of Mormaer and of Toiseach"—were not likely to return, in their own relations with their own Tenants, to the barbarous customs whose very names had become words of opprobrium and reproach. Accordingly we find that the Age of Charters in respect to Ownership was also the Age of Leases, or other Covenants in respect to the Occupation of land, so that all subordinate tenures tended more and more to be governed by the same spirit of substituting limited and definite obligations for liabilities which were always capable of unlimited extension, because they were vague, unwritten, and undefined.

It may be well, however, to look back a little

here, to see, as we did in the case of Charters, what the conditions of society seem to have been in the dark centuries, as regards the cultivating class. Perhaps it would not be too much to say that during a great part of those centuries there was no such class at all—except the Monks and the Serfs. All other men lived mainly for war, or for the chase; and even the Serfs must have had to bear their share in the work of fighting, or of attending to those who fought. Agriculture cannot be a pursuit except to peaceful men, and there were then no peaceful men except the Christian Brotherhoods. Accordingly the earliest glimpses which we get of agriculture in Scotland are connected with the landed possessions of the Church. And one of the very first of these glimpses is in some ways the most interesting of them all. In the narrative of the life led by St. Columba on the Island of Iona, 1300 years ago, left us by the Abbot Adamnan, we see a quiet picture of all the operations of a farm hardly differing at all from those which constitute the ordinary operations of a modern farm, except that they were more complete, and embraced a more varied provision for the comforts of life. There was a Smithy for needed iron work. There was a Kiln for the drying of corn. There was a Mill in which the Monks ground their own corn into meal. There were cows and a cowhouse or byre. There were milk-pails carried from the pastures to the Monastery on horseback. There was a Barn for the storage of grain. There was a Baker for baking the meal or the flour into bread. Moreover, it is significant that this skilled official was a Saxon. There were wheeled carts or carriages for the conveyance of heavy articles.<sup>1</sup> But these early ecclesiastical communities worked the land themselves, or with the help of servants or bondmen. In Iona, at all events, their land was too small in extent to induce them to let out any part of it on hire.

<sup>1</sup> Adamnan's *Life of St. Columba*, pp. 361-2.



But in this, as in all other cases, a different practice arose naturally out of different conditions. The Church acquired in the Middle Ages more and more extensive grants. That which conferred the island of Iona on Columba, the great Missionary of the Sixth Century, was before the age of formal Charters, and it seems doubtful whether it emanated from a King of the Picts or of the Scots. But it is curious that the most ancient notice of it which has come down to us lays special emphasis on the special feature of it which was novel at the time. That feature was the substitution of "Definiteness" for "Indefiniteness" in the tenure which was asked and given.<sup>1</sup> The Monks were wise enough to require something better than the vague Tribal tenures which we have seen denounced by Sir J. Davies as common among the Irish Celts.

And so throughout the Middle Ages the Church was, as we have seen, the great civilising agency in establishing security of tenure in the Ownership of land. We shall now see that the Church was the great civilising agency, also, in establishing that other kind of security of tenure which depended on written covenants and on calculated rents. Ecclesiastics became the largest landowners in the kingdom, possessing estates in many different districts—often at a great distance from the Monastery. The lands so granted could not be wholly cultivated by their own servants and bondmen as the few fields could be cultivated in the little Island of Iona. Under such conditions it is easy to see how Tenancies arose. For in principle there is no difference, and in practice there is a natural and inevitable transition, between cultivators paid by food or wages and cultivators paid by being allowed to retain a certain portion of the produce. Nor, again, is the transition less easy or less inevitable from this condition of things to that in which the cultivators undertake their work for a definite term of years,

<sup>1</sup> *Celtic Scotland*, vol. ii. p. 88.

and on definite conditions as to the amount they are to pay in produce, or in the price of produce, or in services, or (as was often the case) in all three forms of rent. In all cases the essence of the transaction is the same. The Tenant gets from the lord or Owner of the soil that one thing which he himself has not, and could not otherwise get—namely, the assurance of full possession and of the sole right to cultivate. This full possession and sole right to cultivate was to exclude all other men. This exclusive possession was the one essential element of the whole transaction; it was this for which the holder of it was too glad to pay. In the enjoyment of it he was to be protected and defended by the Owner whose alone it was, and who alone could lend it and assure it to another. Very often the Owner gave or lent other things besides this. But this exclusive enjoyment—this peaceful possession even when it stood alone—was that for which the Tenant or holder was always willing to pay a portion of the produce as its price or rent.

Very often—generally, indeed, in very early times—when the actual cultivators were very poor, the Owner of the land gave or lent something more than the mere possession of the soil. He lent also the instruments of husbandry, and the cattle, sheep, or goats, or other stock, which yielded perhaps the greater part of the whole produce of the land. This is still the footing on which land is let in no small part of Europe under what is now called the Metayer system, and which in Scotland was at one time very common, under the name of “Steelbow.” But with the progress of wealth and of the population of free men, it became more and more possible to let land on definite Leases to a class of cultivators having sufficient capital of their own to furnish the necessary stock. The transition, here, as in other cases, was natural and easy, since Leases had been common under the Roman law, and the Ecclesiastics, who first made such covenants, must have been

more or less familiar with the customs of their brethren in the south of Europe.

But as we had to go a long way back in order to understand the language of the early Charters, so in like manner we must go a long way back in order to understand the terms of the earliest Leases. I have already alluded<sup>1</sup> to the various causes which had led among the Celts to the same division between Freemen and Serfs or Bondmen which had been equally established among the Teutonic races. Sentiment and poetry combining, not with knowledge, but with the want of it, has been spreading popular impressions on this as on other kindred subjects which represent some great distinction between Scotland and England, and especially between the Highlands and the Lowlands, in respect to the prevalence of Bondage. It seems to be supposed that there were no Bondmen among the Celts as there were in abundance among the Saxons. This is one of many similar delusions which is at once dispelled by the slightest examination of the best ascertained historical facts, and the most authentic documents. The earliest Tribal laws and usages of the Celtic races, whether in Ireland, in Wales, in Galloway, or in Scotland proper, are permeated through and through with the precepts and principles of a rude jurisprudence founded entirely on lines drawn between the Bond and the Free. The scale of fines for the murder or homicide of the different orders and classes of society was a scale having this great line of division as its base line. The scale of dues exacted by the Chiefs upon marriages among the people subject to them, is also a scale which was graduated upwards from the number of cattle due on the marriage of the daughter of a Serf. For every word in the early Saxon language which designates any due, or fine, or exaction of a rude and unwritten Feudalism some corresponding word is to be found in the various dialects of the Celtic language which pre-

<sup>1</sup> See *ante*, Chap. I. p. 8.



vailed over Ireland and Wales and Scotland.<sup>1</sup> How great was the difference of value set upon the life of a Freeman, and the value set upon the life of a Serf or Bondman among the Celts of Scotland may be estimated by the fact that when David I. thought it expedient to give a formal sanction to the customs of his Celtic subjects all over Scotland, he thereby sanctioned a scale of fine for slaughter or homicide which ranged between 1600 cows for a Prince, 100 cows for a Thane or Chief, down to 16 cows for the slaughter of a "Carl" or Serf. The "merchet" or due on marriage of women showed less difference—as the scale ranged between 1 calf and 12 cows. Yet these most rude and unequal laws are specially recorded, not as the relics of Saxon Serfdom, but as the then existing and living usages of the Celtic races—the "Brettons" of Strathclyde and the "Scoti" in whom all the Celts had been merged north of the Clyde and Forth.<sup>2</sup> But one of the most significant facts showing how much the poorer classes gained by the gradual disappearance of Celtic customs in respect to Bondage, is this—that under those customs it is evident that there had been established precisely the same connection between Serfdom and particular areas of land which led to such ruinous results in Prussia. In one of the fragmentary laws which have been collected in the document called "*Quoniam Attachiamenta*"<sup>3</sup> there is one which shows that the mere fact of a man, his son, and his grandson, occupying certain portions of land which were known as "servile," and rendering for it corresponding services, he and all his descendants to the fourth generation became members of the servile class, and could be adjudicated to be so before an assize court.<sup>4</sup>

In all this we can trace a steady stream of history running through several centuries from the wild and rough hills of Celtic Feudalism into the rich and

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. chap. vi.; *Acts of Parl.*, vol. i. p. 640.

<sup>2</sup> *Acts of Parl.*, vol. i. p. 663.

<sup>3</sup> *Ibid.* p. 655.

<sup>4</sup> *Ibid.*; Skene's *Celtic Scotland*, vol. iii. p. 22.

cultivated plains of modern progress. We see passing before us the long series, and the gradual current of events which prove that the Age of Charters and the Age of Covenants, instead of having been times—as they are often ignorantly represented—of the suppression of ancient liberties among the Celts, by the introduction of foreign tyranny—were, on the contrary, times when the poorer classes of the Celtic community were gradually but steadily delivered and redeemed from very barbarous conditions, not only of Feudalism but of servitude, which had grown up among themselves. When we think of the relics and survivals of that barbarism which were still affecting widely and deeply the condition of society in the Twelfth and Thirteenth Centuries, we must estimate all the more highly those gentle but penetrating influences of civilisation which were then sapping their foundations, and before which, like snow before the breath of a southern air, they did within the next 200 years almost entirely disappear in Scotland. Moreover, we can see that it was the Celtic race which most immediately and directly benefited by the changes which were destroying Bondage. For they often remained as the poorer and the working population of the greater part of the Lowlands and of the eastern counties over the whole of Scotland, while the Ownership of the land was passing steadily into the hands of Anglo-Saxon and Anglo-Norman Lords. This fact is very clearly reflected in the early Charters and other documents in which the regular word for the Serfs or Bondmen was the “Nativi,” or old native Celtic population, whilst in some Charters they are called the “Cumerlache”—a purely Celtic word which has been traced through the Irish language to the term applicable to men who cultivated “servile land.”<sup>1</sup> Moreover, in almost all cases in which individuals of this class are mentioned in the Chartularies, they are designated by Celtic names.<sup>2</sup>

<sup>1</sup> Skene's *Celtic Scotland*, vol. iii. p. 223.

<sup>2</sup> *Ibid.* p. 222.

One of the earliest steps which seems to have led to the elevation of this class out of the ranks of Bondage, was a step which, at first sight, may seem to have been in a backward rather than in a forward direction. This step was the practice which seems to have been begun by the Monks of moving the Bondmen from one estate to another for the sake of their labour in the reclamation of land. "Chattel slavery" is associated in our minds with a very inferior condition as compared with the old mediæval Serfs who were "adstricti glebæ"—transferable from one master to another only along with the land on which they lived. And, no doubt, this would have been a backward step—if it had stood alone—or rather if it had not stood in close connection with other influences which gave to it a very different tendency. But when all those other influences were moving in the direction of freedom, the mere breaking of a bond which tied men to a certain locality was clearly in itself a gain. If the spirit of the age was to make all dues of service more fixed and definite—if service itself was coming to be measured by money payments—if sale was already passing into hire,—it is clear enough that the transferability of labour would be an advantage in itself.

This is another of the innumerable cases in which the effect of any given social or political change is entirely dependent on surrounding conditions. It is curious to observe how completely unconscious those men were who began this change, of the result to which it evidently contributed. They thought only of the infraction it involved of ancient rights and usages—and they treated it accordingly in a spirit of apology. Indeed they had to apply for special permission to the Sovereign. All this appears very clearly in the earliest documents we possess which record transactions of this kind. Thus we have a special Ordinance or Prescript of Malcolm IV. (1153-1165), in which he gives permission to the



Prior and Monks of Coldingham to move "their own men," that is, their Bondmen, from the particular land on which they served to Coldingham, for the purpose of settling that Township.<sup>1</sup> The King forbids any one to trouble them in this matter. So again in the Reign of Alexander II. we have the same Prior and Monks purchasing for 3 silver merks a Serf, with his sons and daughters, from a private landowner, who in his deed or note of sale takes great care to plead that the transaction was one arising out of his "great want."<sup>2</sup> And so again in another transaction of the same kind between the same Monks and a different landowner, he explains in the same spirit, that the price of 10 merks had been given to him "in his great necessity."<sup>3</sup> On the other hand we have abundant evidence that the rigidity of the old Celtic tie between the Bondman and the land on which he lived and served, was being constantly broken from another cause. The Bondmen themselves had an instinct in favour of free labour. In former times they had often eagerly sought for the means of sustenance, and for the protection which came with Bondage. But now they were perpetually escaping. "Fugitivi" became one of the recognised names for them in numerous documents of that age. Some of these documents are express mandates of the Royal authority in favour of Monasteries entitling them to pursue and recover their fugitive Serfs wherever they might be found on the lands of other men. Thus the same Sovereign, Malcolm IV. (1153-1165), whom we have seen giving to the Monks of Coldingham the privilege of moving Bondmen from one estate to another, gives to them also a Precept commanding all men that "wherever the Prior or his servants can find fugitive Serfs justly belonging to Coldingham, they shall have them justly, without disturbance or trouble, and I forbid that any of you detain them unjustly."<sup>4</sup> Thus again

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XXX.

<sup>2</sup> *Ibid.* No. XIV.

<sup>3</sup> *Ibid.* No. LIX.

<sup>4</sup> *Ibid.* No. XXX.

in a later reign, that of Alexander II. (1214-1249), we have that Sovereign issuing a similar Precept in favour of the Abbot of Scone, "or his serjeant," and in this case Serfs or Bondmen are designated by their ancient Celtic designations of "Cumlaws and Cumherbes," and they are described as "belonging to the lands of the Abbacy of Scone."<sup>1</sup>

In all these transactions for the purchase of Serfs, and for reclaiming them, the Abbots and Priors of these days were acting for the best. Not only were they working hard at the Improvement of the Country, but they were bringing the sweet influences of Christianity and the civilising traditions of the Church to bear upon the relations between all those powers which then represented Capital, and all those persons who then represented Labour. Just as for centuries they had been the great instruments in checking the exactions of "Mormaer and of Toiseach," so now they were not less active in raising the condition of that lowest grade in Celtic society, the "Cumlaws and the Cumherbes." When they got these Serfs into their possession, they settled them on their lands with commutation and limitation of the services which they had before been bound to render. The old Columbite principle of changing the Indefinite into the Definite, which puts an end to so much that is picturesque and sentimental, but is nevertheless the very foundation of everything that is civilised and free, was the principle for which they worked, and which they gradually succeeded in establishing.

On this subject we have some detailed and most interesting information. The Rentals and the Journals of several of the Monasteries during the Thirteenth Century have been preserved, and particularly those of some of the great Monasteries of Teviotdale. Thus from the Rental of the Abbacy of Kelso in 1290 it appears that all the agricultural class whom they settled on their Estates,

<sup>1</sup> *National Manuscripts of Scotland*, Part i. No. XXXVII.

whether they had been Serfs or Freemen, were held liable—not to “Cosherings” or “Cuttings” or “Hostings” or “Conveth” or “Caulpes,” or any of the other old Celtic exactions, but to fixed rents in money, together with services limited to a certain number of days, or to the doing of certain definite things. Thus each Cottar paid from one to six shillings a year, with services not exceeding nine days’ labour. The tenants of certain Crofts paid each two Bolls of meal, and were bound to shear the whole corn on a particular set of fields. Again, on other holdings of a large size, the tenants were bound to pay 6s. 8d. of money rent, and to render certain services in harvest, in sheep-shearing, in carrying peats and wool, or in fetching the Abbot’s commodities from Berwick. These arrangements seem all to have been settled by mutual agreement and stipulations, and they were so precise that they fixed even the services in which the husbandman was to have his food from the Abbey, and those in which he was to maintain himself.<sup>1</sup>

Nor is this all. The same penetrating spirit of reform, in substituting fixed dues for vague and semi-barbarous usages, extended to every department in the management of their large estates. These often included great extents of mountain-pastures which could only be grazed by sheep. For these the Monks made careful arrangements as to folds, as to huts or bothies for the herds, and as to shelter for the cattle. The evidence of full and complete powers of property over the whole area, which we have seen to be so striking in the wording of these Charters does not rest on that wording only—but is equally confirmed by the daily life and the multifarious transactions of estate management. The frequent transference of lands from one Tenant to another—the settlement of disputed marches—and the precision and care bestowed on Leases, show that

<sup>1</sup> *Scotland in the Middle Ages*, by Cosmo Innes, pp. 243-45; *Burton’s History of Scotland*, vol. ii. pp. 194, 195.



the fundamental conditions of all agricultural improvement were being rapidly established by the Monks, in the consecration of the freedom of labour, and of corresponding freedom,—of order and legality—in the exercise of the fullest rights of property.

When we consider the number of these Monasteries which were founded in Scotland during the Twelfth and Thirteenth Centuries, from the beginning of the reign of David I. in 1124 to the death of Alexander III. in 1286, and when we consider further the ubiquity of their landed possessions, both in the Lowlands and the Highlands, we may be able to form some estimate of the influence they had in spreading everywhere the same rules of conduct, and the same principles of law. There was no difference whatever between the various parts of the Kingdom which were then Celtic or non-Celtic in different degrees. Many parts of the country which are purely Anglo-Saxon now were as purely Celtic then, whilst throughout the districts which we now call Highland the great possessions of the Church were universally managed on the same principles, and were directed from local Monastic centres. Paisley had lands all through the Lennox and Argyll; Scone and Cambuskenneth and Dumblane, through Strathearn and Menteith; Dunkeld through the Central Highlands; Elgin and Inverness and Beaulieu throughout the northern mountains, and all along the broad sea-margins of the North-Eastern Coasts. And then, besides the lands held by the Monastic bodies, the old Episcopal Sees of Scotland were endowed with large estates. All of these exhibited the same principles of management, to which the old native methods were all steadily conforming. So far from the native Celtic population complaining of the full powers of Ownership exercised by the Monks in the regulation of their estates,—so far from feeling this to be harsh as compared with the older systems practised under their native Lords and Chiefs,—that population, and every

population brought into contact with the Monasteries, were eager to come under their protection, and to exchange the heavy and incalculable burdens of Celtic Feudalism for the moderate and rational obligations which were founded on Covenant and on intelligible Law.

Part of the great benefits eagerly sought for by the people in coming upon ecclesiastical lands depended, of course, upon the special privileges and immunities of the Church from all the exactions which arose out of the obligations of military service. But another part—and a very great part—depended on the fundamental change which lies in the passage from vague unwritten customs to written agreements. And this unspeakable benefit extended gradually but steadily, and on the whole rapidly, beyond the limits of Church Estates. The Anglo-Saxon, and the Scoto-Norman Earls, and Chiefs and Knights, imbibed the spirit of their age, and dealt with their Tenants on the same principles on which they placed so high a value in their own Charters from the King. The very word Charter has come to be associated in our ears with the conceptions of security and of law. It was the Instrument to which every Civic Community and every Owner of land equally looked as their tower of defence against arbitrary Sovereigns. Just as every Burgh in Scotland proceeded on the strength of it to develop its trade and commerce, so, “armed with it, and supported by the law, Norman Knight and Saxon Thane, and Celtic Chief, set himself to civilise his newly acquired, or his newly confirmed property, settled his ‘vil’ or his ‘town,’ built himself a House of Fence, distributed his lands among his own few followers and the “nativi” whom he found attached to the soil, either to be cultivated on his own account or at a fixed ‘ferm’ on the risk of the tenant.”<sup>1</sup>

Among the historical facts which indicate this

<sup>1</sup> *Origines Parochiales*, vol. i., Preface, p. 26, by Cosmo Innes.

great line of advance in the path of civilisation, one of the most interesting is that afforded by the arrangements made by Alexander III. for the marriage of his daughter the Princess Margaret to Eric, the young King of Norway, in 1278. This was the mother of the Princess whose early death subsequently gave rise to the Disputed Succession, and ultimately to the War of Independence. Her portion was to be 14,000 marks, but with an option to her father to give one-half of this sum in Scotch Estates. Provisions of this nature of course implied a well-known and ascertained relation between a definite extent of land and its annual revenue; and this relation, again, could only be established on the foundation of rents in money, or in produce commutable into money, which were not dependent on vague customs or exactions, but upon Covenants and agreements such as could be relied upon for a steady income.<sup>1</sup>

Accordingly we have historical evidence that these Covenants and agreements had been embodied in the form of written Leases at a date almost as early as the earliest Charters. One of the oldest upon record is dated 1190, and conveyed the Tenancy of certain lands from a Lay Owner to the Abbacy of Kelso.<sup>2</sup> The system rapidly extended. Every kind and species of property came to be let on hire for specific terms, and for specific rents—farms, mills, breweries, houses with crofts, houses in towns, titles, annuities secured on rents, dues, customs, and even the use of woods. In short, everything and anything which men could own they could also either sell or let out on hire.<sup>2</sup> All this came naturally, and as a matter of course. Such transactions arose and multiplied with the security of property, the peace of society, and the advance of civilisation. Towards the middle of the next century after the earliest recorded Lease to the Abbacy of Kelso, in 1242, and

<sup>1</sup> Tytler's *History of Scotland*, vol. i. p. 47.

<sup>2</sup> Hunter, *On Landlord and Tenant*, p. 57.



again in 1296, the lettings of land on Lease had become so common on Ecclesiastical Estates that Provincial Councils of the Church drew up canons on the subject, having for their object to limit the duration of Leases granted to laymen to the maximum of five years.<sup>1</sup>

But although these and other transactions of a similar kind make it evident that the system of letting land on hire for definite rents had become well known and universally established long before the close of the Thirteenth Century, it so happens that whilst we have many much earlier Charters, no actual specimen of a written Lease has been preserved which is dated earlier than the beginning of the next Century—the Fourteenth. But this oldest specimen is in the highest degree interesting and instructive.

It is an agreement or contract between the Abbot of Scone and two gentlemen, father and son, whose name was de Hay del Leys, for the Lease of certain lands near Perth. The only peculiarity in the case is that the Monastery of Scone had itself no chartered tenure of those lands. They were held only at the pleasure of the King. It is evident that the Monks considered this pleasure to be safe enough. But the possible contingency of being deprived of it had to be contemplated and provided for in the Lease. It is dated 1312—two years before the battle of Bannockburn. In many ways this document is remarkable. In the first place, its business-like and definite legal form indicates clearly enough that, although it happens to be the first of these Covenants which survives, it must have been drawn out on principles and on practices, if not in a form, which had been long familiar. There could not be a better example of the undivided powers then involved in the Ownership of land, and of the perfect freedom which governed the relations between those who desired to let, and those who

<sup>1</sup> Hunter, *On Landlord and Tenant*, pp. 56, 57.

desired to hire, the exclusive right of cultivation. Moreover, it is remarkable in this—that the terms of the contract are in their nature those which have come to be designated as an “Improvement Lease”—that is to say, a Lease under the terms of which the Lessee was only too glad to execute improvements upon the land, and to pay for, and out of, the increasing produce some specified share of that increase in the form of rent. He was not bound to improve, but it was assumed that he would do so from self-interest. On this assumption he was bound to pay an increasing rent—the steps of increase, however, being fixed and definite. In order to pay this increase he would need to increase the produce. There was no other compulsion in this particular case. But it was enough. In the loose language of modern agitation the Tenant would have to pay this increase “upon his own improvements.” But 574 years ago men understood the principles of business better. The Tenants felt and knew that “their own improvements” had to be made “upon,” and out of, materials, and opportunities, and guarantees, which were not “their own,” but came from other men. All these came from the Owner of the soil. They constituted a kind of Capital which the Tenants did not possess, and it was in the nature of that Capital to yield a very large return to certain kinds of labour,—provided always, and provided only, that the tenants got the assurance and security of possession exclusive of all other men. But this security and exclusiveness could only be got by bargain with the Owners. Therefore the Tenants felt that their own improvements could only be “their own” in part, seeing that another great part of the result must be derived from, and be due to, the Owner. To him, accordingly, the cultivating Tenants were always ready to render back in rent some stipulated share of any resulting increase. In calculating what that share might be, time was an all-important element. On the length of exclusive enjoyment

must depend the share of increased produce which could be afforded. In this case the term was for thirty years. The rent was to begin at two merks for two years ; to rise to three merks the third year, and so on, one merk more for each year till the sixth. Then for the six following years it was to remain at six merks—that is, until the end of the twelfth year. Then for the eight following years to the end of the twentieth year the rent was to be eight merks ; and then for the ten remaining years of the term it was to be ten merks. Besides this rent they were to grind their corn at the Mill of the Convent, and to pay the usual dues on this necessary service. They were to be at liberty to cut fuel (peat) on the farm ; but for their own use only, and were strictly prohibited from selling it. The Convent retained its right to pasture its cattle on the common grazing, and to cut fuel on “the moors and marshes” when they shall have need. The Tenants were further bound to build on the farm competent buildings for themselves and their husbandmen, which they were to leave so built at the end of their term ; and, finally, in case of the Convent losing the land by any revocation of the royal gift under which alone they held it, the Tenants were held bound to leave the farm along with their Husbandmen, and with this specified compensation, namely, the abatement of one year’s rent for the year in which they might be so dispossessed. But the teachings of this Lease are so many and so important that, as in the case of the early Charters, I think it best to present it to my readers in full:—

*(Translation.)*

AGREEMENT between the ABBOT OF SCONE and  
EDMUND OF HAY DEL LEYS and WILLIAM, his  
Son (1312).

IN the year of grace 1312 was made this agreement between religious men. Lord Thomas by the grace



of God Abbot of Scone, and convent of the same place, on the one part, and Edmund de Hay del Leys and William his son, on the other part, namely, that

The said Abbot and convent have granted and to farm (rent) let all their land of Balgarvi, with all pertinents, and their right marches,

With which husbandmen were wont to hold the same land to farms (rent)

To the said Edmund and William his son, and the heirs of the said William of his own body lawfully, directly, immediately, lineally, and not collaterally to be procreated, and descending until the term of thirty years following fully complete.

Paying therefor yearly the said Edmund, William his son and the heirs of the said William, to the said Abbot and convent, the first year two merks of good and legal sterlings, namely, one-half at the feast of Whitsunday, and the other half at the feast of St. Martin, in winter: the second year, two merks at the terms before noted; the third year, three merks; the fourth year, four merks; the fifth year, five merks; the six year, six merks: and for the six years immediately following, namely, till the end of the twelfth year, they shall pay six merks every year at the terms before mentioned, and for eight years immediately following, viz., till the end of the twentieth year, they shall pay eight merks every year; and for ten years immediately following, viz., till the end of the thirtieth year, they shall pay ten merks every year of good and legal sterlings, at the terms before noted.

The term of entry of the said Edmund and William to the said land beginning at the feast of Whitsunday, the year of our Lord 1313; the term of their first payment beginning at the feast of Whitsunday the year of grace 1313.

And the foresaid Edmund, William, and heirs of the said William, shall do suit at the court of the

Abbot three times in the year, at the three head pleas, their husbandmen shall do suit at all the pleas of the said Abbot, to be held within the barony of Scone.

And the said Edmund, William, and heirs of the said William shall come to the Mill of the said Abbot and convent of Kyncarroqui with all kind of corn growing on the said lands of Balgarvy, which they shall grind for their sustenance, and shall there give the twenty-fourth "vas" (peck) for all-saving the right of those that serve at the mill (as knaveship) :

And their men and husbandmen and their cottars shall give the sixteenth "vas" (=peck) of all kinds of corn growing on the said lands of Balgarvi, as the other husbandmen and natives of the said Abbot and convent :

Also both they and their tenants shall do towards the preparation and upholding of the said mill in all things as other husbandmen in the neighbourhood.

And the said Edmund, William, and heirs of the said William, shall do the forinsec service of our Lord the King so much as pertains to the said land, and they shall sustain all other burdens in any manner of way touching the said land till the end of their term foresaid.

And the said Edmund, William, heirs of the said William, and their men dwelling on the said land of Balgarvi shall take fuel from the common for their own use only, neither shall they sell therefrom, give or alienate in any other way, unless from their arable land, which it shall be lawful to them thence to take, give and sell.

Reserving to the said Abbot and convent and their successors in the common pasture of the said lands the usufruct for their animals ; in moors and marshes for taking fuel when they shall have need.

And if disputes, trivial and not grave, shall arise among the men of the said Edmund, William, and the heirs of the said William, they shall decide and

correct them among themselves, but if there shall be greater differences, and pertaining to the lordship, such ought to be reserved for the court of the lord Abbot, there justly to be determined :

Reserving in everything the lordship to the said lord Abbot : And the said Edmund and William and heirs of the said William are bound, without dissimulation, to agree to the counsel and assistance of the said Abbot and convent when required.

And if our Lord the King shall happen to revoke the gift of the said land from the said Abbot and convent, the said Edmund, William, heirs of the said William, and their husbandmen, shall quit without paying the rent of the year of their quitting.

And the said Edmund, William, and heirs of the said William, shall cause to be constructed on the said land of Balgarvi competent buildings for themselves and their husbandmen, which they shall leave so built at the end of their term.

In witness whereof  
the common seal of the chapter of Scone is appended, and the seals of the foresaid Edmund and William are appended.

This Lease exhibits all the essential features of the contracts between free men for the hire of land which, down to our own time, have for the long period of more than 550 years prevailed in Scotland, and which, the moment domestic peace and security returned to any portion of the land, resulted in an extent and a rapidity of agricultural improvement which has never been surpassed in any country. The secret of the success of these Covenants lies in their definiteness, and with their definiteness, in their justice. The particular stipulations might vary infinitely according to the nature of the subject let. The term of years might vary from five to nineteen, or thirty, or the term might be for a life, or lives. There might or there might not be a bargain about improvements. It depended obviously on the



cheapness or dearness of the rent whether improvements would or would not be remunerative within a given time, and without any other compensation than that secured by the increased production arising out of them. This, too, was generally a matter of express stipulation. In the Lease now referred to, the houses built were to be left without any compensation. Probably the houses of that time were made of turf and wattles. But in many other cases the Leases provided for the payment of what were called "meliorations"—that is, for the value of improvements of a special kind. Sometimes they provided for an optional "break" in the Lease at seven years, or some other period short of the full term, and specified that the "meliorations" should be due to the Tenant only if his enjoyment ended at the shorter term, and should be extinguished if it lasted to the end. He could thus calculate securely how far his outlay would be returned. Again, as regards another great source of value in the Middle Ages—namely, dues in the form of labour—there might or there might not be an exaction of services in labour, besides a rent in money or in produce. But the one essential feature in all such lettings by Lease was that every stipulation was as definite and precise as possible. Both parties knew exactly what they were agreeing to. If services were included, the amount and nature of the work to be done were generally specifically mentioned. Already, in the previous century, the Thirteenth, we find from the Rental of the great Abbey of Kelso, that the Monks had introduced the same principle of definiteness and precision into their arrangements, even with their Husbandmen, who had no Leases, but who were only Tenants at Will.

It is to be observed, however, that these Covenants were strictly confined to the relations between the Owner and the Tenant, or, as the Lease-holding tenant came to be called in Scotland, the "Tacksman,"—"Tack" being the name for a Lease. No

notice whatever was taken in most of these Leases of any class of men subordinate to the Lease-holder or Tacksman. The full powers of exclusive possession for the purposes of cultivation which the Owner enjoyed, as a necessary part of Ownership, were lent or granted, on the stipulated conditions and for a given time, to the Lessee who hired them. He had full power over all inferior or subordinate occupiers, if any such existed. In the case of this earliest extant Lease, given by the Abbot of Scone, we have some very clear and very interesting intimations on this matter, which is one of the highest historical importance. In the first place, we learn that the land or Farm which was granted on Lease to Edmund and William de Hay del Leys had previously been rented by Husbandmen, or actual cultivators, who "were wont to hold the same land to farms" (or rent). It is certain from this recorded fact, that when these lands were granted to the Abbey, this grant (until revoked) was not merely a grant of a rent charge, or a mere grant of grazing, but a grant of such undivided Ownership as involved the right of the Abbot to re-let the land to whom he would. The former "Husbandmen" were therefore not Serfs or Bondmen, who were irremovable from the soil; neither were they free Tenants with any rights of occupation which prevented the land being withdrawn from them. In the second place, we see that the new Leaseholding Tenants were expected, as a matter of course, to bring fresh Husbandmen of their own, who are variously designated as "their men," "their husbandmen," and "their Tenants." In the third place, we see that certain stipulations of the Lease assume that over these men the Tacksmen had complete power to compel them to pay certain services for the upholding of the Mill, and for the paying of a higher rate of meal-tax for the grinding of corn than was to be paid by the Tacksmen themselves. It appears further that this obligation in respect to keeping up the

Mill was a common obligation upon all the Husbandmen of the neighbourhood. Lastly, there is an express condition that the actual Husbandmen or cultivators were to remove from the land along with the Tenant himself at the termination of the Lease. This was evidently the common practice and usual stipulation of that day. It was probably an absolute necessity for the improvement of the soil then largely waste. The native cultivators were probably then, as we shall see they were in much later times, wedded to barbarous usages, or too ignorant and too poor to be improvers. They might or they might not be mere servants or bondmen. They were the “agricolæ” of the old Chroniclers, the “bondi” and “nativi” of the earliest Feudal Charters. They were regarded as yearly tenants, and in the eastern districts of Scotland they were often the remains of the old Celtic population.<sup>1</sup> But, whatever their status was, whether bond or free, it is clear that they were not recognised as then having, either by law or custom, any right of occupancy in restriction or limitation of the full right of Ownership. If they cultivated any land at all for their own use, which in this case they were clearly expected to do, it must have been only as sub-tenants at will of the “Tacksman” or Lessee, and as he could not give any possession longer than his own, they were to leave the farm when he left it. The power of sub-letting was itself generally a matter of express stipulation. Sometimes it was specially allowed. Sometimes it was specially prohibited. When there was no stipulation it seems to have been considered as allowed.

There is one other stipulation of this Lease which incidentally casts an important light on another question of much interest—namely, the exact position under such Leases of the common grazings of the country. We have seen that under the Charters special care was taken to enumerate and include

<sup>1</sup> *Celtic Scotland*, vol. iii, p. 85.



every variety and kind of surface—whether in woods, or in mosses, or in meadows, or in mountain pastures. It followed as a matter of course, and indeed of necessity, that when portions of such lands were let, and divided from each other by definite “metes and marches,” whether these were natural or artificial, the whole surfaces within those marches were equally the subjects of the Covenant. The grazings, as distinguished from the comparatively small areas of enclosed land, were often the most valuable portion of the subjects let. They continued to be “common” in one sense only—namely, that like all other pastures in that time, they were used promiscuously by the Tenant and by all his Sub-tenants or Husbandmen. But the Tacksman alone had the power of disposing of them, and of regulating the use of them among his subordinates. So absolute and exclusive was this power, that the Chartered Owner himself had no right whatever to use those pastures after he had let them, unless by express reservation in the Lease. Just as he parted with his exclusive right of possession over the arable land in favour of his Lessee, so also did he part with his rights of grazing, except in so far as by express stipulation he might reserve a share. Hence the clause in this Lease which expressly reserved to the Monastery their right to pasture their cattle upon the common grazings of the farm of Balgarvie. The word “common” referred to the method of use, not at all to the principle of tenure. It was assumed that the Lessee would have as complete power to exclude the cattle of the Owner as to exclude the cattle of all other men, unless the Owner took care to preserve, or to reserve, some portion of his own rights in this matter.

At this time, it is to be observed, the principles embodied in the Lease rested on no special legislation, but on the much stronger foundation, first, of the acknowledged rights involved in Ownership, as these had come to be developed through the course of many centuries, and secondly, of the correlative

right of all Owners either to sell or to let their property to any men, and on any conditions, whether of purchase, or of hire. All Charters, as we have seen, had taken these rights for granted, and they had grown up so naturally and so reasonably, and so much as a matter of necessity, that they required neither definition nor support. Moreover, it is quite certain that as we have traced the spirit of precision which more and more governed the form of Charters to the influence of the Latin Church and the principles of the Roman Law, so it is even more certain that the same spirit as applied to Leases was derived from the same copious fountain of all the elements of Justice and of Civilisation.

Under the Republic land was constantly let on hire, and the Contracts of Leases were among the most familiar of all legal instruments. No actual copy has survived, but the leading stipulations are accurately known. They regulated the rent, which was fixed or definite, either in money, or in produce, or in service. They regulated the duration of the tenancy, which was always definite also, and often short—most commonly not more than five years. They regulated also the devolution of the Lease to certain Heirs. They regulated, moreover, the kind of husbandry and the succession of crops—so as to secure the Owner against the losses which so often arise to Owners from the misuse of their property by bad husbandry. They regulated also the power of sub-letting. There was, in short, under the noble jurisprudence of the noblest people that have ever ruled, perfect freedom of contract between Free Owners and the Free Hirers of Land.

Under the Empire the number of Leases declined, because Freedom declined also, and the number of Free Men. It had already become more and more the custom to cultivate great estates by Slaves. They of course did not hold under contract, nor were the dues they paid in the nature of a rent. They were allowed to keep certain portions of the

produce—enough to sustain their life, and to suit their servile status ; but nothing near the proportion of the total produce which fell to the lot of Free Tenants under the system of Covenants. More and more as the Free Population of Italy became exhausted by constant and decimating wars, this system of great extents of country cultivated by Slaves extended itself, and was the symptom rather than the cause of evils which were sapping the foundations of the Empire. It was to this system that Pliny referred when he spoke of “*Latifundia*” as having “ruined Italy.” By a most ignorant perversion of historical truth, this passage has been quoted over and over again as applicable to large Estates in modern Europe, and especially in Scotland. Yet the two systems of management were not only different in their origin and in their nature, but they were the antithesis of each other. Slavery never did exist in modern Europe on the scale or of the character which prevailed in the Roman Empire. There was, indeed, Serfdom and Bondage, and as we have seen there were a few scattered and individual cases in which the sale and purchase of individual Serfs with their families were just enough to show how easily under less happy auspices the institutions of Serfdom might have passed into genuine Slavery. But the line of movement in society was not towards the extension, but towards the extinction of it. The greatest of all Landowners, as we have seen, the Church, worked steadily against it. All other Landowners followed in their wake, and before the end of the century in which the two Hays received their Lease from the Abbot of Scone, Serfs and Bondmen had practically disappeared from Scotland, and the system of free Tenants holding under free Covenants had become the established usage of the country.

Those who mistake or mis-state the facts on this great question of the comparative extent and on the comparative character of Slavery in the old



Heathen and in the modern Christian world, are either ignorant or careless of a distinction which is fundamental to all right understanding of the history of Mankind. Some of those facts are indeed so strange to all we have either seen or heard of since the Christian era that they seem hardly credible. At least it is most difficult for us to realise the conditions of society which are authentically known to have prevailed in the Roman Empire, or even in the later days of the Republic. Slavery was at the root of everything. It was the basis of society so far as all labour was concerned. Some rich men possessed as many as 20,000 Slaves, the majority of whom were Field Labourers. Crassus is said to have had 500 "head" alone as his corps of builders and carpenters.<sup>1</sup> Slaves are said to have been as three to one of the whole free population at the opening of the Christian era, and for 200 years later. So early as the times of the Gracchi they were displacing the free rural population, whether small proprietors or free labourers. Nor did this great curse affect the rural districts only. Freemen were crowded out of the Towns, as well as out of the fields, by swarms of Slaves. Their labour was displaced, and their number diminished. Little more than a century after the death of Pliny, agriculture had so declined that Italy could no longer support its own population, and the Emperor Commodus organised a regular fleet of vessels so large as almost to correspond to our modern idea of a "Liner," by which the harvests of other lands might be carried to the Tiber.<sup>2</sup> Rome came to be supplied in abundance with corn from Carthage and from Alexandria, from Palermo and from Cadiz, and from all the ports of the world accessible to the great grain ships—from 1000 to 1300 tons burden—which were employed in the

<sup>1</sup> *The Gentile and the Jew*, by Dr. Döllinger, Eng. Trans., vol. ii. p. 262.

<sup>2</sup> See Dissertation on the "Ships of the Antients" in the *Voyage and Shipwreck of St. Paul*, by Jas. Smith of Jordanhill, 2d ed., 1856, p. 173.

trade. The free farmers and free labourers were thus undersold from abroad, whilst at the same time they were undersold at home by the cheap labour of slaves who were exempt from military service. These were spread over large tracts of country. The free population disappeared. This was the cause, and this was the nature of the evil which was denounced in the word "Latifundia." The most learned man, perhaps, now existing in Europe has examined this subject with the conscientious care which is always equal to his great resources. He shows how Slavery had undermined Freedom not only by way of the displacement of labour, but by way of the corruption of opinion. Even in the mind of such a man as Cicero, it had stamped as servile and unworthy a multitude of employments, which in themselves are as noble as any other forms of industry. "It was thus," says Dr. Döllinger, "the sturdy, industrious middle class was lost to Rome. The free population consisted of proletarii, living in republican times by the sale of their votes, and under the Emperors upon the public distribution of money and corn; degraded and demoralised they were despised by the rich and assimilated more and more to Slavery. . . . The Roman people was, though Slavery diminished, depraved, and utterly changed to its heart's core. The genuine plebeian stock had in reality ceased to exist. Already by 150 B.C., Scipio Æmilianus had taunted the grumbling populace with the assurance that he should never tremble before those whom he had himself brought in chains to Rome. It was not the 'Latifundia,' as Pliny thought, but Slavery that had ruined Italy: had the Latifundia been peopled by Free Tenants the consequences would have been different."<sup>1</sup>

This difference between the Roman Slaves and the Free Tenants of modern Europe is a difference

<sup>1</sup> *The Gentile and the Jew*, by Dr. Döllinger, Eng. Trans., vol. ii. p. 270.

indeed. To confound the Latifundia of Pliny's time with the great Estates of Mediæval Barons is a blunder which is excusable in platform orators, to whose speeches the quotation of one Latin sentence gives a tinge of learning. But it is inexcusable in men who care for sound reasoning, or for the truth of History. In no part of modern Europe did the evils of the Roman Latifundia arise. In no part of it were they even possible. But in Scotland perhaps more than in any other country, the holders of great Estates at this time were the Leaders of the Nation not less in the progress of civilisation than they had been in winning National independence. It has been well said both of the New Owners and of the Old Owners with a new title, that they were of the progressive party. Their own interests, their own powers, their own aspirations—all combined to make them so. Their territorial possessions could not be used except by sharing them with others. Parts they granted in "Feu-farm" to kinsmen, to friends, and to retainers. Parts they let to Tacksmen on different conditions of Lease. On parts they kept the native Husbandmen, supplementing their resources by lending them seed, cattle, and other stock; whilst again other portions of their land they cultivated themselves by hired labourers. The whole of these were Free Men, constituting a gradation of classes, founded on freedom, and manly dealings with each other between diverse ranks. All this was the very converse of the processes and causes which ruined Italy.<sup>1</sup> The nearest type and image of them in the world which arose on the ruins of the Roman system, is to be found not in the great Baronies or Estates which were chartered with us in the Twelfth and Thirteenth Centuries, but in the territories which were

<sup>1</sup> The truth is, that the context of the passage in Pliny, which is so often and so ignorantly quoted, shows that it has no bearing on the subject. Pliny is clearly speaking and thinking of the amount of land, or size of farm which a man can well manage and cultivate on his own account.



then still subject to those unwritten usages of Celtic Feudalism which Chartered rights of Ownership had happily superseded. That older and ruder Feudalism had been from the beginning largely founded upon Bondage, and it still subjected men who were nominally free to arbitrary exactions, so vague, so various and so enormous, that it was impossible to calculate on the secure enjoyment of the fruits of industry. The change which took place in the passage from these usages to such written Covenants as that which we have examined, was a change as deep and searching as it was beneficent.

Accordingly we find that everywhere over the whole of Europe the influence of the Latin Church led to a return to those better and earlier practices of the Roman people which consisted in the letting of land to Free Tenants under Covenant, and which had never ceased to be recognised and sanctioned under their noble jurisprudence. Probably even in the worst of times it had never wholly ceased, for there must have been many places and many circumstances in which Slaves could not be found, or could not be trusted to be the sole cultivators of landed property—especially when that property lay in distant Provinces of the Empire. Thus we know that the Sicilian Estates of the feeble Rulers who still represented the Western Empire among the marshes of Ravenna, were, in the middle of the Fifth Century, let to Free Tenants on Leases with all the definite covenants usual in modern Estates.<sup>1</sup> As we advance towards the Middle Ages, we see that the Lessees of all ecclesiastical lands were generally free cultivators; and towards the end of the Thirteenth Century we have a French Treatise on the customs of a portion of that country, from which it appears that lands were let under precisely the same word used in Scotland about the same time—namely, the word “ferme”—meaning a fixed rent

<sup>1</sup> Hunter, *On Landlord and Tenant*, ed. 1876, vol. i. p. 32.

agreed to upon a series of fixed conditions.<sup>1</sup> In Germany the progress of events was not so steady in this direction. Serfdom lasted longer. There were stupid and antiquated limitations of land to particular classes, and there was a fatal preference of old usages, which are always tending to abuse, over perfect freedom and definite agreements between free men, which are always open to re-adjustment. These were undoubtedly among the causes which led to the fall of Prussia. She did not recover till means had been taken to abolish the abuses of a traditional and unwritten Feudalism. And it is remarkable that when Stein was studying the reforms which he afterwards promoted, he took as his model, and as the goal at which he aimed, those happier developments of Feudalism under Anglo-Saxon and Scoto-Roman law which he saw established in Great Britain.

We strike deep, then, into the very roots of modern history, and into the very sources of our civilisation, when we examine all that is implied in this Lease given by the Abbot of Scone in the earliest years of the reign of King Robert the Bruce. Like the Charters it may be said that Leases rose out of the ground, and grew. They were far more deeply founded than on any local legislation. They sprung from the seeds of freedom, sown in the fruitful soil of Roman Law, and trained, as regarded their form and development, under the conscientious direction of the Latin Church. Nay, it may even be said with truth that the original source of these Covenants lay deeper still. For the foundations of morality are the common property of all mankind. The obligation of a promise is an elementary obligation. The faith of Covenants is universally recognised as a faith which cannot be denied. Strange to say, the value of it to society has never been more picturesquely or forcibly described than by the oldest known code of Celtic Laws. For in the "Brehon Laws" we are

<sup>1</sup> Hunter, *On Landlord and Tenant*, ed. 1876, pp. 34, 35.

told that "there are three periods at which the world is worthless: the time of a plague, the time of a general war, the dissolution of express contracts."<sup>1</sup>

Sir Henry Maine has referred with some incredulity to this sentence as seeming very like a later introduction.<sup>2</sup> In this I venture to disagree with him. The whole method of expression is thoroughly Celtic. The words translated "express contracts" do not accurately convey the meaning of the original, and might suggest to our ears the idea of written documents. This would indeed savour of a later age,—of formal "deeds" and parchments. But the Celtic words here used are full, on the contrary, of that archaic time when there was nothing more binding than the spoken word—the promise of the mouth,—accompanied or unaccompanied by some symbolic act. Accordingly, the Celtic words used in this passage of the Brehon Laws, which have been rendered by the English words "express contract," specify the method of expression as the oral method—"contracts made by word of mouth."<sup>3</sup> I find, moreover, that there are some idiomatic phrases in the Scottish Gaelic in which the same word "Cor"—not now in common use—is still retained as expressive of a possessory right in the strongest possible sense. A Highlander will say, pointing to something which he thinks belongs to him, "that is cor to me," meaning, "that is my right." The whole passage, therefore, instead of having a modern aspect, is redolent, on the contrary, of very archaic times.<sup>4</sup> There can be little doubt, indeed, that those who wrote it were not thinking of Covenants about what we call the hire of land. But there can be just as little doubt that they

<sup>1</sup> *Celtic Scotland*, vol. ii. p. 75; *Ancient Laws of Ireland*, vol. i. p. 51.

<sup>2</sup> *Early History of Institutions*, pp. 56, 57.

<sup>3</sup> The Celtic words are "fuaslucad cor mbe'l," literally "loosening of contracts of mouth."

<sup>4</sup> My information on this point of language is due to the kindness of Mr. Whitley Stokes, the greatest living authority on Celtic literature, and as regards Gaelic, of Mr. Macpherson, minister of Inveraray.



were thinking, and must have had familiarly in their minds, Covenants about the possession of cows, and about the grazing of them, and about the division of their calves, and about the sharing of their milk, and generally about the services which men were willing to promise to each other, for any and every kind of benefit rendered to themselves. All this is the same thing. Just as cattle stood in the place of capital in those early days, so did they stand in the place of farms, and all bargains between man and man about them were fundamentally the same as the bargains which were made in later times about the share of cattle, or of other produce which was commuted into various forms of rent. The introduction of this passage, therefore, into the Brehon Laws does not necessarily indicate, or even naturally suggest, any foreign element other indeed than those earliest echoes of Celtic Christianity in which we hear the missionaries of the New Testament repeating and enforcing the divine teachings of the Old.<sup>1</sup> In the writings of the Jewish Prophets we see always the same conception—that the mouth is the organ of the mind and heart in their deepest issues of Thought and of Intention. The solemn promise—the sacred vow—is always spoken of as recorded by the lips. Thus amid the splendours of the sixty-sixth Psalm we have the words—"I will pay Thee my vows which my lips have uttered, and my mouth hath spoken, when I was in trouble." And so also, in respect to the great duties of Worship and Devotion the "fruit of the lips" is spoken of as our truest and most acceptable oblation. Such are the real fountains of the fine old proverb in the Brehon Laws which ranks the breaking down of personal honour and good faith in the keeping of engagements as among the heaviest calamities of mankind. This is its true connection; for the same passage goes

<sup>1</sup> Numerous other passages in the "Senchus Mor" are to the same effect. See *Ancient Laws of Ireland*, vol. i. pp. 33-41, etc.

on to represent the great practical duties of Charity and of Religion as the best guarantees against the three enumerated evils. And when it is added that these duties "confirm all in their good contracts and in their bad contracts," we recognise the influence and authority of that grand Benediction in the Psalms of David, which is pronounced upon him "who sweareth to his own hurt, and changeth not."<sup>1</sup>

The Covenants, however, about the hire of land, of which we have thus seen the first example, did not need the exercise of any heroic virtue. Men did not make them to their own hurt, but, on both sides to their own advantage. The silence of their introduction, the speed of their advance, and the universality of their prevalence, are all consistent, and consistent only with the knowledge, and experience of mutual profit, or mutual convenience. And as in all other similar cases where the growth of individual interests is founded on rules of law becoming more and more definite and precise, these Covenants tended directly and very powerfully to the growth of national prosperity and wealth. The feelings and the instincts which inspired these Covenants are the real explanation of their great results. Sentiment underlies all conduct and all opinion; and the prevailing sentiment of any given time is that which directs for evil or for good the working of its practices and its laws. If that sentiment be natural—unperverted, the working will be of a corresponding character. If it be corrupt, or even if it be only rude and barbarous, its working will inevitably lead to corruptions far deeper than its own. For this is the nature and property of all evil in man and in society—to lead further and further from the ascending path, by the downward steps of Natural Consequence. Thus the prevailing sentiment which has been common in many early conditions of society that war is the only occupation worthy of a man, and that all forms of industrial labour are comparatively

<sup>1</sup> Psalm xv. 4.

mean, is a sentiment which has always been damaging, and very often has been absolutely fatal. Wars when waged for a noble cause have an ennobling effect on men. The mere love of fighting and of rapine has, on the contrary, an effect the most degrading. Nor is this effect redeemed by picturesque stories and martial poetry, whether they be Norse Sagas, or Gaelic songs. We have seen that the Celts under Robert Bruce were disciplined like other civilised men to fight in the very van of great battles for great national objects. But the prevailing sentiment of society in Scotland in his days, and in the old times before them, was what may be called, shortly, the Spirit of Improvement. As one Province after another was cleared of an enemy, and firmly added to the Kingdom, the next thing thought of was always to settle and improve it, by giving it to men who could hold it in security, and could reclaim it from bog or forest by their own servants, or by letting it out to Husbandmen. These classes moved and were moved freely from one Estate to another as their services or their undertakings were required. The sentiment of keeping men on the soil for the sole purpose of fighting for a bare living, eked out by raids and forays, was not the sentiment of the Kingdom or of the people in those greatest days of our national history. Robert the Bruce did indeed enact, in a Parliament held at Scone in 1318, that all men should be armed according to their rent or possessions—the humblest being bound to provide himself with at least a good Spear or a good Bow and one sheaf of (24) Arrows.<sup>1</sup> But he and his predecessors were equally desirous that, when possible, the Sword should be turned into the Ploughshare and the Spear into the Pruning-hook. For this purpose they encouraged peaceful industry, and the movement of the cultivating classes from one district to another, as the great work of reclaiming a wild country might

<sup>1</sup> *Act. Parl.* vol. i. p. 473.



require, under the operation of natural motives and of free Covenants.

Accordingly we have historical evidence that such movements of the rural population were constant and habitual, and that they began far earlier than is generally supposed. The provisions of the Scone Lease in 1312 show that one set of Husbandmen went out when the new "Tacksman" came in, whilst another set came in with him when he entered, and were required to leave with him when he left. But this bit of evidence stands halfway in point of time between two other items of evidence to the same effect. One of these comes from the century before the Scone Lease, and the other from the century after—showing that we have in the Scone Lease an example of the regular rule and practice of a long and a great Age. More than a hundred years before that Lease, so early as 1209, in the Reign of William the Lion, we find that the case of Husbandmen leaving their holdings at the covenanted expiration of an express term, had become a case so common that it needed special notice and recognition in respect to the heavy dues which were then raised on the grinding of corn for the support of Mills. Accordingly it was provided in a short Act of the Great Council of the Kingdom, held at Scone in 1209, that a man leaving land which he had held on Lease for a given term, "and passing away," should not be called upon to pay more than a certain limited rate of "multure" on his corn, or should have one half of the quantity required for seed wholly exempted.<sup>1</sup> Another Statute of the same date made some corresponding regulation for the case of new or in-coming Tenants. This early care for "outgoing Tenants," and for those who came in their place, as a well-known class, is remarkable. We are apt to fancy that in those remote times agriculture was hardly yet a profession

<sup>1</sup> *Act, Parl.* vol. i. p. 382.

or a pursuit—that men only farmed to live, and that there were few or none who lived to farm. But from this old law of William the Lion, and from the simple and natural terms in which it speaks of a class who held lands “on farm,” and who “passed away” from them at the end of their term, it is clear that this condition of things had then already become common at the beginning of the Thirteenth Century, and that all the Estates of the Realm regarded it as a natural and necessary incident of the progress of agriculture, and of the operation of free Covenants between those who owned, and those who hired land for the purposes of cultivation. Such movings and changings among Tenants might arise either from the Tenant thinking he could do better elsewhere, or from the Owner finding he could do better in improving and reclaiming through other men.

We have only to look at the Scone Lease to see how great was the work of reclamation in those days, and how little it could be intrusted to men who mentally, if not physically, were “adstricti glebæ,” tied by ignorance to the idle habits and wasteful usages of a barbarous age, who had absolutely no capital, or whose industry had often been destroyed by the desolating customs of Celtic Feudalism. There was much to be done in those days in subduing the earth, and it was the first care as it was the first duty of the Owners of land to see that those things were done. How much was expected from, and how much was habitually done by, the class of men who took land on hire, and who reclaimed it for their own profit, as much as to the advantage of the Owner and of the Nation, may be judged by the scale of increasing rent which was bargained for by the Monks under the Scone Lease. Within the comparatively short space of 20 years, the Tenants in this case became bound to pay ten merks instead of two merks for the same amount of land. That is to say, that the calculated increase

of value, measured by rent alone, was to be 500 per cent. Beyond all this, of course, the Lessees expected to make not only a profit, but probably an increasing share of profit out of the reclamations they might effect. But assuming that their profit was to bear to the end of the Lease, not an increasing proportion, but only the same proportion to total produce as at the commencement, we see that the processes of improvement were then known to be so rapid and so sure in their results that Lessees could calculate upon a great increase of produce in twenty years,—so great that a Farm producing corn and cattle to the value of 6 merks, at the beginning of that time, was safe to produce at least 30 merks' worth at the end of it. I assume, as a rough approximation to the truth, the correctness of an old saying in Scotland, that Rent in those days generally represented about one-third of the produce. This saying was embodied in a rhyme which has descended with its old Scotch dialect from distant generations,—

“ Ane to saw,  
Ane to maw,  
And ane to pay the Laird witha’.”

which, translated into purer Anglo-Saxon, means “One part to sow (for seed), one part to eat (consumption or profit), and one part to pay the Laird (Owner) withal” (Rent).

There is no reason to believe that the rate of increase contemplated under the Scone Lease was in any way exceptional, for fertile as the Valley of the Tay now is, it is clear that at that time it had a large proportion of peat-mosses and other wild land, which, under the system of Free Covenants, already long in operation before 1312, have now entirely disappeared.

I have already said that the Scone Lease stands midway in point of time between two items of historical evidence as to the habitual movings and



changes among the cultivating class, consequent on the taking and on the leaving of land under covenants of Lease. We have seen how distinct that evidence is at a date more than a hundred years before the Scone Lease. Let us pass on for another hundred years, and we have another evidence still more emphatic and remarkable. It is, indeed, a most significant indication of the fundamental value attached to the full rights of Ownership in land, and of the insuperable objections which were then entertained against any division of those rights or any limitation of them except such as might flow from perfect freedom of contract between free men. This indication is afforded by an entry in the proceedings of one of the early Parliaments of James I. held at Perth in the year 1429—an entry of a most anomalous kind. It appears that the system of letting land on lease to “Tacksmen” had become so prevalent that attention had been much called to the consequent sudden removal of the actual cultivators or Husbandmen who had previously occupied the lands so let. James I. did not ask his Parliament to remedy this inconvenience by giving to such cultivators any “fixity of tenure” which would be obviously incompatible with undivided Ownership and with the progress of agricultural improvement. He did not even ask therefore for any positive statute on the subject. But he proposed to, and obtained from, the Barons and Prelates who were the great Landowners present at Perth, a promise or engagement that for the future they would give one year’s notice to all cultivators or Husbandmen whose removal might be involved in any new Leases they might grant.<sup>1</sup> At a time when there was much uncultivated land, and no difficulty in obtaining the occupation of it, this promise was probably quite effectual to prevent any serious hardship to the cultivating class.

It is not, however, till twenty years later that

<sup>1</sup> *Acts of the Parliaments of Scotland*, vol. ii. p. 17.

we find the earliest legislative landmark in the history of Covenants for the hire of land. The first Act of Parliament on the subject arose out of the necessity of deciding whether the Owner of land could grant Leases which should be binding on his successors by purchase, or on other "singular successors;" that is, successors to the estate not being his own natural heirs. The question before that old Parliament may be stated thus:—each new Owner, in buying land, bought or succeeded to all the full rights of Ownership. Could he be deprived of them by the act of those who had preceded him? To admit that he could was in one sense an immense extension of the powers of Ownership, because it extended those powers even beyond the grave, and made the "dead hand" prevail over the living. Yet, in another sense, and for the very same reason, it would be a great limitation on the powers of Ownership in the hands of the living, because it made them subject to promises and engagements to which the living Owner had never been a party. Whether was the dead Owner or the living Owner to prevail? Were all existing and living Owners to be deprived of their freedom over their own estates because their predecessors had chosen to limit their own freedom during their own lives? This was one aspect of the question, and it was the aspect in which the question might most naturally be regarded by an Assembly of rough Chiefs and Barons, who were themselves also the greatest Landowners in the Kingdom.

But there was another aspect of the question—namely, this: What was just to those who had taken Leases from one Owner and found themselves suddenly in the hands of another? Again: What was the best principle to adopt in the permanent interests of agriculture and of all the classes who had interests in land subordinate to the interests of Ownership? These were the questions which had to be decided by the Parliament of Scot-

land in 1449; and the manner in which they were decided is an excellent answer to the ignorant clap-trap which assumes that all ancient legislation, having been enacted by the classes connected with the Ownership of land, was necessarily guided by a purely selfish spirit. It would be more true and philosophical to admit that, on the whole, in every advancing country, each generation has had at least as much conscience and as much sense of justice as our own. So it was certainly in the Fifteenth Century in Scotland; and, although in that case, as in all other similar cases, the decision which was just was also, in the long-run, the decision most conducive to the interests of those who might have been tempted to think otherwise, yet the reasons which influenced that decision were reasons of conscience dictating a wise and reasonable policy.

It is, indeed, remarkable that these considerations, and not what we should now call reasons of Political Economy, are especially set forth in this statute, as the determining considerations in the case. The wording is curious:—

“It is ordained for the safety and favour of the poor people that labour the ground that they, and all others, that have taken or shall take lands in time to come from Lords, and have times and years thereof, that suppose the Lords sell or alienate these lands, the Takers shall remain with their tacks on to the ische (expiry) of their times, into whosoever hands these lands come (pass), for such like male (rent) as they took them for before.”<sup>1</sup>

This is indeed sound, wise, and civilised legislation—directed to the encouragement of deliberate contracts by insisting on their binding force against the party which was then the strongest—and on their binding force, too, especially in the case of a change of Ownership, so that Leases should be valid against all comers. It has been supposed that the words “poor people that labour the ground” indicate some very specially low condition of the agricultural

<sup>1</sup> *Act. Parl.* (Jacob. Prim.) vol. ii. p. 35. This Act is quoted in law books as 1449, c. 17.



classes. But this is by no means a necessary implication. It does, indeed, imply that Leases were given to Tenants who were poor. But the protection which the statute gives is not confined to this class, but is expressly extended to "others"—to all who, whether poor or comparatively rich, should make bargains for the hire of land for definite times and for fixed rents. The historian is right when he describes this law as "a wise and memorable act in its future consequences on the security of property, the liberty of the great body of the people, and the improvement of the country."<sup>1</sup>

It will be observed that this legislation not only places no restriction on the undivided Ownership of land, but that it implies and assumes as belonging to that property the most complete and unrestricted rights. It was simply an Act to facilitate and to enforce contracts or engagements which had been deliberately made. As between the Owner and the Lessee it implies that the Lessee could have no other rights than those he might stipulate for in his Lease. He could enforce these, not only against the natural heirs and successors of the Owner with whom he had made the covenant, but also against all who might otherwise acquire the same estate, but beyond these he had none to enforce. He was in no way protected against himself. He might agree to render services of any extent, but they must be sufficiently definite to be capable of legal enforcement. On the other hand, neither in this way nor in the way of rent in money or in produce could the Owner add anything during the stipulated term. But again, at the end of that term all the Lessee's rights ceased, because this was part of the covenant. Thus both parties could have confidence—that one essential element in all the transactions of business. Then, further, as between the Lessee and those under him there was no interference of the law. The Lessee could exercise all the rights

<sup>1</sup> Tytler's *History of Scotland*, vol. iv. p. 66.

of Ownership which his Lease conveyed to him, and if there was no Lease or other express Covenant, the law presumed him to have the yearly fruits of the soil, whether natural or artificial, and the complete power of exclusive occupation over the whole surface for the purposes of husbandry.<sup>1</sup> If his Lease allowed him to sublet, he might do so under whatever conditions he could obtain from others. If his Lease did not allow him to sublet, the prohibition would be enforced. If the Lease was given to a group of the "poor people that laboured the ground," the same rights and obligations applied to them that applied to the wealthier individual "Tacksman." Such men who held land under Lease could deal with all others of their own class precisely as richer Lessees could deal with them under the same conditions. The one great characteristic feature of this system, and its one immense superiority over Celtic and all other mere local customs, was in the substitution of certainty for uncertainty, of Definiteness for Indefiniteness, of known and settled law for mere vague usages and tradition.

We pass on for another short space of only 20 years, and we come upon another sample of that wise and progressive legislation which, in keeping to fundamental principles, and to all that was good in ancient usages, yet took note of evils as they arose, and checked any accidental invasions of acknowledged obligation. Somehow it had come to pass that when Owners of land got into debt, their creditors came upon their lands and seized all the cattle and crop they could find upon it, without distinguishing between that which properly belonged to the Owner of the soil, and that which belonged to the hirer of it. Probably this hardship began in and arose out of the prevalence of "Steelbow" holdings, in which the cattle and other stock were supplied by the Owner of the soil. But whatever was its origin,

<sup>1</sup> Erskine's *Institutes*, ed. 1838, p. 330.

it had become a grievance, and it was obviously destructive of the principle of a Lease, which secured the Tenant against any increase of his "male" or rent before the expiry of his term. If a Tenant had this security only against a solvent Owner, but lost it as against creditors the moment his landlord became insolvent, it is obvious he would practically have no security at all, and the whole value of Leases would have been destroyed. Accordingly, in strict consistency with the fundamental principle of ancient and well-established covenants, with recent confirmatory legislation, and with the clear equities of the case, the Parliament of James III.<sup>1</sup> which was held at Edinburgh in 1469, enacted, that this invasion of the faith of Leases should be put an end to—that the "puir tenants" should never in any case be liable for any portion of their Landlord's debts, beyond the amount of their stipulated rent—so that "the inhabitants should neither be grieved nor hurt by their Lord's debts." The Roll of this Parliament shows that only four Burgesses attended, representing Stirling, Aberdeen, Edinburgh, and Dumfries. All the rest of the legislative body belonged to the Ecclesiastical and Baronial Orders—who, in this case, as usual, were the leaders of the nation in the progress of civilisation and of law.

There is but one other important step to be noticed in this memorable course of legislation. Eighty-five years later than the Statute we have just mentioned, it was again found necessary for Parliament to interfere for the purpose of regulating the forms under which Owners should give notice to Tenants whether they intended to renew their Covenants for another term or not. Some ancient traditional customs connected with this point are curious and obscure. It seems that in remote times, before written documents were in use, the Owner of land, in letting it to a "Malar" or Tenant, used to present him with a wand. And so also when he

<sup>1</sup> *Act. Parl.* (Jacob. III.) vol. ii. p. 96.



wished his "Malar" or Tenant to remove at the stipulated end of his term, the Owner used to give him legal and formal notice by coming to his Tenant's door, and breaking another wand before him.<sup>1</sup> And this could be done at any time, and on any day in the last year of the Lease. This was clearly the survival of some very ancient symbolism. I do not know its origin, and very probably this cannot now be traced. But it points beyond question to the great antiquity of the sentiment that the letting of land was a mere lending of it by the Owner, and that he had a right to resume his property by a very simple and peremptory process. In very rude and early times, when the stock was very generally lent by the Owner along with the land itself, and when Tenants had little or nothing to remove, except their persons and a few simple instruments of husbandry, the want of any fixed period of previous notice was probably not felt as a hardship, or even a serious inconvenience. But of course as agriculture improved, and as the class which lived on the hire of land became a little wealthier, this inconvenience would become serious. It was to remedy this that a new Act was passed by the Parliament of Queen Mary which sat in Edinburgh in 1555. There was evidently much need of some processes more regular than those then in use, for we know by a previous Act passed in 1546 that serious troubles and even bloodshed had arisen connected with the removal of Tenants at the end of their Leases. The Scottish Parliament did not conceive that the way to remedy such evils was to sanction bad faith, or to legalise the breach of deliberate covenants. But it did require that every step should be taken in due form of law—not by sudden violence on the one side provoking as sudden resistance on the other, but by the intervention of the King's Officers and the King's Courts. And now for further and more permanent remedy, it

<sup>1</sup> Erskine's *Institutes*, p. 353.

provided that not less than 40 days' notice before Whitsunday in the last year should be given to every Tenant if his Owner desired him to remove at the originally stipulated date. If this notice was resisted, the case was to be taken before the King's Courts, by whom the question was to be decided according to covenant and to law.<sup>1</sup> Such has been the law of Scotland until the other day, since which a larger notice,—the natural agricultural unit of one year, has been required. The progress of agriculture has made this extension as reasonable as was the period of 40 days in the Sixteenth Century. But practically that Statute of Queen Mary may be said to have closed the era of Legislation. Upon that Legislation, or rather upon the fundamental principles of equity and of acknowledged obligation which underlay it, the whole subsequent progress of agricultural industry was conducted. It well fulfilled the noble purpose and declaration which was made by one of the Parliaments of Robert the Bruce: "The King wills and commands that common law—that right—be done to Poor and Rich, after the old laws and freedoms before these times rightiously oysset and hantit" (known and understood).<sup>2</sup>

We have not yet done, however, with the important historical questions on which light is thrown by the Scone Lease. A common impression prevails in many minds, that although lands were let on hire so early and so commonly as we have seen, yet that the rents paid by the Tenants, if not mere quit rents, were at least very low, and not at all regulated by anything like what we now understand by Market Value. It is not easy to explain how this impression has arisen. In two ways the evidence seems to be complete against it. The first kind of evidence is such as that which arises out of the Scone Lease—going as it does to show that rent was expected to follow the rising value of the

<sup>1</sup> *Act. Parl.* (Mar. Reg.) vol. ii. p. 494.

<sup>2</sup> *Ibid.* (Rob. I.) vol. i. p. 107.

land, and that Covenants were habitually made under which the Lessee bound himself to pay increasing rents, only, however, to a specified amount, as he might be enabled to pay them out of increasing produce. The second kind of evidence is not less strong,—consisting in the fact that there were some Tenants to whom Lands, Mills, Houses, and other subjects were let specially and expressly on the footing that they should hold these various possessions at a low or preference rent; and in the further fact that this was a well-known kind of Lease, and a well-known class of Tenant, so well known, indeed, that they were designated by a name separate from all others. This name, moreover, was one singularly expressive of the special origin and of the special nature of the tenure. In the language of those centuries they were “kindly Tenants.” This exactly signifies the exceptional personal feeling which led Landowners from time to time to grant to particular persons, and as a particular favour, farms or other kinds of holding at a low, or sometimes even at a nominal rent—just as they might, and often did, actually for similar reasons, grant Annuities out of rents or Feus at a small and fixed rate of Feu-duty. Sometimes we know that these “kindly” feelings and kindly grants were given in gratitude for some special service—sometimes to men of Knightly rank, sometimes to Husbandmen, and “Nativi” of the country. But the same healthy usages and laws which demanded “definiteness” in all other tenures, made the same demand, and all the more carefully, in the case of this exceptional kind of Tenancy. They were grants, or they were covenants, and nothing more. Like all other grants and Covenants they must rest on evidence of the intention of the Owner or the Superior from whom they came. The slovenly argument or inference that, because an Owner may not have asked a higher rent for a long time, he had thereby parted with his right to



do so, and had sacrificed a power incident to Ownership, was an argument never used, and an idea never entertained, in those days. But on the other hand, in the high spirit of legality and precision, which is the only secure defence of the rights of men, whether they be rich or poor, "kindly" tenancies were rigidly respected wherever there was proper evidence of the preferential right in which they consisted.

There could not be a better example of this than a case given in the *Book of Lennox*. The Crawfords of Jordanhill, near Glasgow, were a distinguished family in the Sixteenth Century. They had received from one of the Earls of Lennox the "kindly" Tenancy of a Mill with its adjuncts in the village of Partick, on the Clyde. Later transactions had placed in the hands of the Commandator of the Abbey of Paisley, the right of Feuing lands in the same Barony of Glasgow, but under the restriction that he was to respect the rights of all "kindly Tenants." In 1587, Thomas Crawford of Jordanhill seems to have been in some danger of losing his Mill in Partick, with its adjoining land. James VI. and the Duke of Lennox of that date, were obliged to interfere, and in the Deed or Warrant to which I refer, they record the reasons for which they do so. These were twofold. In the first place, satisfactory evidence had been laid before them "by authentic writ," and otherwise, that Thomas Crawford of Jordanhill "was kindly tenant of the Mill," etc., and that he had been in peaceable possession of it for these many years bygone by virtue of heritable right and feu granted to him "by such as had sufficient power for the time to set (let) the same." In the second place, the King and Duke recount "the good, true, honest, faithful, and constant service done to us and to our House of Lennox by the said Thomas, in all time bygone from his youth." Therefore, the Deed declares as a matter of fact that upon trial or examination, the said

Thomas had been found “to be kindly Tenant of the foresaid Mill and pertinents,” and directs that in future he should hold it “in Feuferme” to his Heirs and Assigns for ever.<sup>1</sup>

There is, however, a much more remarkable case than this of “kindly” Tenancy—dating from a much older time, and surviving to the present day. Long before the great House of Bruce had become allied with the old Royal Family of Scotland they had been the Lords of Annandale. Not many miles from the point where the river Annan falls into the Solway Firth, there is a little tract of country marked by a curious group of small Lakes. Within the Parish there are no less than seven of these sheets of water.<sup>2</sup> Of these the largest was and is still called Lochmaben. Such situations were naturally often chosen in the Military Ages for Castles of Defence. So it was in this case. The mounds and moats which indicate a Castle of great antiquity still mark the spot where the Lords of Annandale lived before they had risen to more than Baronial greatness. Another Castle of much more magnificent proportions also survives, in fragments of massive wall, upon another spot nearly surrounded by the waters of the largest Lake. Here King Robert loved to hold Court, both as King and as Lord of Annandale, on his Ancestral territory.<sup>2</sup> Round this Castle, and by the side of these intertwining Lakes, there were four of the ancient Farms or Townships of the country, which then everywhere represented the modes of cultivation and of residence common among the native population. For some special reason not now known, and at some time which is equally uncertain—whether before or after the Lords of Annandale had become Kings of Scotland, one or more of them had granted to the Tenants and Husbandmen of these Farms some promise or engagement that they

<sup>1</sup> *Book of Lennox*, vol. ii. pp. 330, 331.

<sup>2</sup> *Old Stat. Acc.* vol. vii. p. 234.

should hold their land on the footing of "kindly Tenants." These "Rentallers" were called "the poor Tenants of His Majesty's lands," and "kindly Tenants:" their duties were called "Rents" and their possessions "Rooms." There was no written Deed or Charter; but on the other hand there was not only continuous and unbroken local tradition, but there was an equally unbroken chain of evidence in the continuous transactions of many generations. Succession to these holdings had been recognised always by the simple process of writing the name of the Successor in the Rental Book of the Lord, which entry it was the custom for the Steward of the Estate or the Constable of the Castle and Lordship to make without fee or charge. These little holdings were bought and sold as freely as any other Estate in land. During the course of centuries, in rude times, and in a Border District when and where it needed sometimes all the strength of strong men to keep and to hold their own, these "kindly Tenants" lived on—strong only in the memory of The Bruce. There were some attempts to oppress them occasionally by the Constables of the Castle.<sup>1</sup> But whenever their complaints were brought to the knowledge of the higher authorities of the Kingdom they were always remedied. On two recorded occasions there were direct interferences of the Crown—once in the time of James VI.—once again in the times of Charles II.<sup>2</sup> At a much later date—in 1726—the Courts of Law were called upon carefully to consider their titles, and in solemn decisions, not without legal difficulties, these have always been sustained.<sup>3</sup> In signal rebuke of the loose and ignorant charge against the Law, and the Administrators of the Law in Scotland, as if they had wrongfully construed the rights of property against the poor, the kindly Tenants of the "Four Towns" of Lochmaben have survived,

<sup>1</sup> *Lochmaben*, etc. By Rev. W. Graham, pp. 100-1.

<sup>2</sup> *Ibid.* p. 102.

<sup>3</sup> *Erskine's Institutes*, p. 342.



and still survive immense changes in surrounding property, for the simple reason that the evidence of original intention, and of deliberate covenant, although not resting on written documents, was nevertheless of such a nature as to be equally conclusive. That evidence clearly distinguished them from ordinary agricultural Tenants, especially in this, that their rent was from the first fixed at a rate below that of ordinary value, and had never been on the footing of a rent variable from time to time, like the rent of ordinary farms. The ultimate decision of the Courts of Law in Scotland recognised this tenure as virtually the tenure of a Feu—just as James VI. and the Duke of Lennox, on another kind of evidence, had recognised the tenure of the Mill at Partick by Crawford of Jordanhill, as the tenure of a Feu.<sup>1</sup> In virtue of this decision the kindly Tenants of Lochmaben became Proprietors, and have ever since been entered as such in the Valuation Roll of the county in which these lands are situated.

These cases, taken from very different centuries, and applicable to very different classes of men, show the principle on which alike the language, and the customs, and the law of Scotland recognised the position of Tenants who held lands at rents which were low and fixed, as fundamentally distinct from the position of men who held land on the ordinary terms of hire. Both were tenures by Covenant; and both were to be dealt with on evidence of intention. But the nature of the Covenant in the two cases was wholly different. Where the cheapness of rent below the ordinary value was guaranteed permanently and heritably, the holder of such land was virtually a Feuar, and it was best to recognise his status as such. In both the instances I have given this was done—in the case of the man who was already of Proprietary rank, the Laird of Jordanhill, and in the case of the poor tenants of the Four

<sup>1</sup> Hunter, *On Landlord and Tenant*, 4th ed. vol. i. p. 426.

Towns of Lochmaben, who clearly belonged at first to the class of Husbandmen, or perhaps of the soldiers and retainers of the House of Annandale. In other cases of which there appear to have been many in some centuries, where the grant of land at a low or abated value was given not heritably but personally to a particular man, his right was recognised as that of a Liferent, and at his death the Owner of the land recovered his right to let out his farm on the ordinary terms of hire. What these ordinary terms were in principle, and in the universal understanding and practice, is clear from the mass and variety of transactions in the nature of Leases which already, as we have seen, had taken written form nearly a century and a half before the death of King Robert the Bruce. As regarded agricultural lettings it is clear that the principle and the practice was that rents should follow real or actual value. Values were rising with a rising civilisation, and with the progress of improvements which were made on the strength of undivided Ownership and on the faith of Covenants founded thereupon. On the other hand, these improvements did not at that time, when scientific agriculture was unknown, involve the heavy expenditure of modern Buildings, Drainage, and Fencing. The only draining known was wide open Ditches—the “Fossae” of many early documents—to cut off the cultivated land from actual bogs and morasses. The only fencing was made of rough sticks and branches taken from the nearest brushwood—so light and flimsy that as we have seen the Lords of Avenel used to break and trample them down when out with Hounds and Hawks. The only houses were the traditionary habitations made very much of the same materials—with timber frames, wattled walls, and an external covering of mud or of some kind of plaster. Under such conditions the labour of reclaiming and improving land must have consisted chiefly in digging or trenching, and in taking

out the roots of trees. Very often, in the case of the poorer class of Tenant, the oxen for ploughing, and the other cattle, were supplied by the Owner of the land. Under such conditions the increasing produce of land would speedily repay the labour spent upon it, and a short term of hire at a rent proportioned to value at the time of letting, would be an ample inducement to the cultivating classes to seek the "Tack." This explains the rule laid down by the Provincial Council of the Church in 1245 that Tacks should not be granted, and consequently that rents should not be fixed, for a longer term than five years. This also explains the rapid scale of increase in the rent at short intervals, which the Tenants agreed to pay within the first twenty years in the long Scone Lease. These Tenants belonged to the wealthier class, and they would certainly calculate upon a return suitable to their condition.

It may be assumed, therefore, upon a combination of evidence which is conclusive, coming as it does from every direction of the compass, that the system of Leases as it arose in Scotland, was a system of definite Covenants for definite terms of years, longer or shorter as special circumstances might determine in each case, during which the rent was either absolutely fixed or graduated according to a fixed scale; but at the end of which the Owner was not only free, but was ordinarily expected to make a new Covenant, on new conditions such as might bring the rent up to the usual and average proportion of Rent to total, or gross, Produce. This does not mean that farms at the end of Leases were let by any process similar to that by which goods are sold in a modern auction room. That was not the way in which things were done in those days. The new rent may sometimes have been settled, as it almost certainly was in the case of the Scone Lease, by the Owner accepting the voluntary offer of new men of capital



like the Hays. But generally the rent must have been settled not by the highest offer of any actual or formal competition, but simply and naturally by the amount which any dozens or scores of men would be eager to give in order to get, or to renew the Lease.

This is market value in its natural and ordinary sense. Between this kind of rent and a "fair rent" there was no distinction. In a manly age men thought that when they bought anything, or hired anything at a price or rent such as almost any other man would give, they bought or hired it at a value which was fair. It is remarkable, moreover, that when at a much later time the loose colloquial expression of a "fair rent" came to be used for some practical purpose and with some important meaning, and when the Law was obliged to give to it some definite interpretation, that interpretation had the effect of identifying a "fair rent" not with a rent lower than the average, but, on the contrary, with a rent which should not be lower than that average. This interpretation arose out of the practice of Entails. The necessity was obvious. When Owners were deprived of the power of sale, it was absolutely necessary to deprive them also of the power of alienating under collusive forms. If a man might let his lands at any scale of rent he liked, however low and however much under the average or market value, he could of course by accepting large fines on the renewal of Leases or on the first lettings of land, lower the rental to the point of practical alienation. To prevent such corrupt practices, and still to preserve the essential principle of Leases as sanctioned by the Act of 1449, it was essential to provide that an Entailed Proprietor should not let his farms below a "fair rent." And again, in order to make this prohibition effectual, it was absolutely necessary to lay down the principle that by a "fair rent" was meant a rent fair to all the parties concerned—to the existing

Heir in possession—to his successors in the Estate—to the Tenant, and to the interests of agriculture, which are never really promoted by the removal of those incentives to exertion which arise out of the necessity of meeting obligations. No scale of rent could suit all these conditions except that representing the value which men of average capital, enterprise, and skill would be certainly willing to give. In our own day, wherever “the public” is concerned, the same principle is adopted. Lands are always valued for purposes of taxation or assessment on the basis of the value at which they would let one year with another.

A moment's consideration will show that under such a system as this rents might remain unchanged for generations—even for centuries, without the slightest inference arising against these rents being purely a matter of Covenant, or the least presumption against the right and the power of the Owner to let his lands at a higher value if he could. The value of everything depends upon civilisation—not the value of land only, but the value of all its products, and of all the articles manufactured from these, and most of all, the value of human labour. But civilisation does not advance everywhere and at all times. It may, and it often does, stagnate, and for long periods of time it may, and it often does, go back. The population of particular countries, or districts of country, may be given up to less improving pursuits than those of agriculture. Its produce may decline, and a recrudescence of barbarism may condemn it to chronic poverty and waste. Under such circumstances, of course, Rent would follow the conditions of Society, of which—like Price in every other form, and especially like the price of labour—it is only one of the measures and results. But with the return of peace, and the recommencement of peaceful industries, the old Covenants would be revived. Land would regain its natural value, and the same proportion of its total produce which men

are always ready to give for the exclusive possession of it, would represent a higher rent, because the total produce would itself be a much larger quantity, and saleable for a much higher price.

But the universally accepted idea over the whole of Scotland that every form of possession in land, whether permanent or temporary, rested, and could only rest upon grant from, or Covenants with, those "who had sufficient power and right for the time to grant or to let the same," is an idea which receives another illustration from another tenure in Scotland which is even more striking and complete than the tenure by Lease. I refer to the very peculiar but the very common tenure of older days, which was called "Wadset." "Wad" or "Wed" is another form of the word "Pledge," and in exact accordance with the usual meaning of that word, lands let upon "Wad" were lands lent on Pawn. The Owner, in consideration of a certain sum of money paid down to him, gave in pawn or in pledge to the Wadsetter certain lands or farms, under the counter-pledge or Covenant given by the Wadsetter, that on the same sum in money, or some other sum definitely fixed, being repaid to him or to his Heirs, he would restore the lands to the former Owner or his Heirs.

Under this strange tenure large portions of great Estates and Baronies were often pawned to Wadsetters. Very frequently neither the Owner nor his Heirs for long periods of time—it might be for generations—found it convenient to redeem, by repayment of the stipulated sum. During all that time the Wadsetter was in the enjoyment of the full rights of Ownership. He might and he often did build valuable houses for the residence of a Proprietary family—he might and he often did improve the land, and let it out at increased rents. Yet whenever the original Owner or his Heirs were enabled to fulfil their part of the bargain the Wadsetter was bound to fulfil his part of the bargain also—and that bargain was that the land should



return to the Owner, with all its pertinents, according to the terms of the Covenant. But this, although at variance with popular sentiments of equity in the present day, was in reality perfectly just, not only because it was in fulfilment of a deliberate Covenant, but also because the balance of real advantage as between the two parties, did not by any means always lie on the side of the Owner who redeemed a valuable Wadset. The value of the land originally pledged may have been, and generally was, much more than amounted to fair or ordinary interest upon the sum lent. Besides this, all the natural or accidental increments of rent which might arise with the progress of time, from the cessation of wars, or from other causes, went into the pocket of the Wadsetter, so that by the time of redemption he might well have been repaid not only the whole of loan, but very high or even usurious interest besides. The balance of advantage may therefore have been very largely on the side of the Wadsetter, because of his long enjoyment of an enormous return for some small loan borrowed by the Owner, under the pressure, perhaps, of some great and unforeseen necessity. It was perfectly equitable that when that necessity had passed away the "Reverser," as he was called, should re-enter upon his property, and even its increased value might very well be but a small part of the immense price he had really paid for a temporary accommodation.

In repeated cases large Estates, which had been broken up into Wadsets by an extravagant or unfortunate Owner, have been re-united by some one or more successors who were frugal in their management, or happy in their alliances and acquisitions. The Wadsetters often tried to avoid or evade accepting the redemption money. But both the law and the public sentiment held firmly and unshakenly to the doctrine that Covenants deliberately made between free men must be upheld. The Legislature

interposed in 1469 to prevent fraudulent evasions of them. The Courts from time to time were busy in the same work, and in regulating the rules of warnings of redemption, so as to make all such Covenants as clear and express as possible, and to make it easy for both parties to protect themselves against usurious interest on the one hand, and sudden redemptions on the other. But these objects have always been aimed at on the principle of reconciling as far as possible unforeseen and equitable claims with substantial observance of the faith of Covenants. The tenure of land by Wadset is now extinct, but it has become extinct mainly from this cause, that whilst some Wadsets were converted into Feus, or bought up by the Wadsetters, a very large number were extinguished by the literal fulfilment of the original obligation, by the redemption-money being paid, and by the wadsetted land being merged in the Estate to which it had originally belonged.<sup>1</sup>

We have seen in reviewing the Age of Charters how early they had begun—and how universally they had become established. We have seen how they forced their own way by the inherent excellence of the principle on which they were founded—giving form and substance to the long accepted ideas of men in respect to the actual sources of authority and of power, whilst at the same time they tended to check the excesses of that power, and to restrain within the limits of definite law and obligation the arbitrary exactions of unwritten Feudalism. We have seen how, even in Ireland, the Celtic Provincial Kings had yielded to their civilising influence before a single Norman soldier had as yet landed to invade the Isle of Saints. We have seen how in Scotland even the fierce Lords of the Isles—the Sons of the wild Somerled of Celtic blood and of Norse inheritance—had persuaded the lawless Chieftains of the Western Highlands to accept and to impose the same

<sup>1</sup> Erskine's *Institutes*, ed. 1838, pp. 388-403.

restrictions on their desolating usages. So now we have to observe that precisely the same progress was made with all the corresponding tenures which were subordinate to Charters, and which rested on the same great principle of defining the rights of men, and of accustoming them to regulate their dealings with each other on the faith of Covenants. Accordingly, these subordinate tenures in the form of Leases, Wadsets, Grants, Warrants, and Agreements of every form and kind spread rapidly over the whole Kingdom, from the Pentland Firth to the Solway, and from the Western Isles to the German Ocean. There was no difference between different parts of Scotland in respect to the law, or in respect to the practices founded upon it, wherever law and order were maintained at all. Leases and Wadsets—which last tested to the very utmost the principle of Covenant,—became as common in the heart of the Highlands as they were in the Lowlands proper, or in the Southern and Border Highlands. In these Border districts the conditions of Society were long quite as unsettled as in the Western Mountains or on the Western Coasts. But at all times and in all places, whenever and wherever peace prevailed, the law of Charters and the law of Covenants was the law on which men acted and on which men relied—on the strength of which every step was taken in the path of improvement, and in the work of civilisation. If in any part of Scotland this system of law was ever supplanted by a relapse into the old usages of Celtic Feudalism, it was only in the places where, and in the times when, all law was suspended, and all improvement stopped, and all civilisation turned back on the way to Barbarism. This, however, is a subject too interesting and too important to be treated incidentally. It must form the subject of another chapter.



## CHAPTER IV.

### THE EPOCH OF THE CLANS.

WHEN a great man dies, even after doing imperishable work, it may sometimes be that his work suffers skaith, and that the full value of it may not be seen until after many days. It was so with King Robert the Bruce. His work was one of the greatest which it is given to men to do. He did not merely win a Crown—that may be a very small matter. He made a Nation—and that must always be a very great one. He gave to a weak, and a scattered, and a divided people one common object of ambition, and that a noble object. He welded and disciplined diverse and antagonistic races into one people—seeking to establish that national independence on which alone can be raised the structure of liberty and of law. He left a profound impression on the mind of his people. It is one of the great merits of the curious history of the life of Bruce, which has been left to us by a Monk of the same century, that its laborious rhymes are more true to fact than to the poetic spirit. There are, however, some passages of true poetry, and there is one passage in particular of singular beauty, force, and pathos. It is the passage in which the Chronicler relates the last scene of all—when in his castle of Cardross, looking down on the junction of the Leven and the Clyde, the old Lion had lain down to die. When the sense of death had smitten him, when he had called his Knights around him and told them of his long-cherished purpose—the purpose of all knightly piety

in that age—to fight against the Infidel,—when he had begged that some one might be chosen who could at least carry his heart to the war where it had long wished to be,—when the good Lord James Douglas had accepted this mission, when the dying King had given his last instructions—when the Church had shrived him—with “very repentance” Robert the Bruce gave up the ghost. Then the Historian, after the manner of Livy and other ancient authors, puts into the mouth of those who surrounded the deathbed of this great man, a Song of Lament which well expresses the sense of loss which must ever accompany the departure of a powerful Personality from the world :—

“All our Defence,” they said, “alas!  
 And he that all our comfort was,  
 Our wit and all our governing,  
 Alas! is here brought till ending!  
 His worship, and his mickle might,  
 Made all that were with him so wycht,  
 That they might never abasèd be,  
 While forouth<sup>1</sup> them they might him see.  
 Alas! what shall we do or say?  
 For on life while he lasted, ay  
 With all our neighbours dred<sup>2</sup> were we:  
 And in till many ser<sup>3</sup> contrie  
 Of our Worship sprang the renown:  
 And that was all for his persoune.”<sup>4</sup>

These touching words were not more touching than profoundly true. The personal qualities of great men are in all ages powerful. In rude ages, when the foundations of society are being laid, they are the root and spring of everything. But hero-worship, the disposition to follow and be led by any one with strength of hand, like everything else that is good, may have its dangers too. If the men whom others follow be men like Bruce, with some fruitful principle of conduct and some really great objects of pursuit, fidelity to their standard may

<sup>1</sup> Before—in times past.

<sup>2</sup> Dreaded—feared.

<sup>3</sup> Foreign.

<sup>4</sup> Barbour's *Bruce*, bk. xiv. lines 853-867.

well be the very highest form of public virtue. But if, on the contrary, the men whom others follow are the reverse of all this—if they embody nothing but the lower instincts of mankind, and have no objects of pursuit higher than intertribal feuds or the lust of power or gain, then fidelity to Chiefs and Leaders may be, and often is, the very greatest danger to which Society can be exposed. It has broken up great Empires, and has thrown back into utter barbarism national governments which had been full of promise.

No man knew this better than Robert Bruce, nor did any man know so well from what part of his Kingdom this great danger would be likely to arise. If the thoughts of his deathbed were fixed upon the fields of Palestine, the anxieties and the cares of his last days of health had been wisely directed to duties which lay nearer home. We have seen that many of his Celtic subjects had followed him with unswerving fidelity, even when his fortunes had been at the lowest. He had not only trusted them, and disciplined them along with men of other races, but he had placed upon them special reliance as his own Battalions of reserve in the pitched battles of Bannockburn and Byland. But he knew also that whilst under good Leadership they were brave and faithful, they might as easily be equally brave and equally faithful to other Chiefs, whose first care was not for the Scottish Kingdom. Accordingly, in the Treaty which he negotiated with Edward III. in the last year of his life, 1328, and which was ratified by the English Parliament of Northampton in that year, he took care to extract from that Sovereign an Article pledging him not to intrigue with or support the Celtic subjects of the Scottish Crown in the Western Isles. For himself, he gave a corresponding pledge that he would abstain from similar methods of attack through the rebellious Celts of Ireland.<sup>1</sup> It is impossible to

<sup>1</sup> Tytler, vol. i. p. 352.



mistake the significance of this provision. Robert Bruce knew that when handled and led by true patriots, the Celtic element in the population of his Kingdom would be an element of strength; but he knew also and perhaps foresaw that when led by anarchical or traitorous Chiefs, they would be a source of weakness and of danger. How near and how great that danger was it was not possible for even Bruce to see. Let us look for a moment at how it arose and what it teaches.

In the long and happy processes of amalgamation between the Celtic and Teutonic races, which went on in Scotland during the 200 years between the reign of Malcolm Canmore and the reign of Robert the Bruce, there never was any recognition of such a thing as the Irish "Pale." There never was a circle of favoured Provinces within which the people enjoyed the advantages of civilised and written laws, and outside of which a whole Nation was left to Archaic usages in the last stages of decay, corruption, and abuse. Wherever the authority of the Crown extended, there was one system of law regulating the rights and obligations of men. At one early period, some special provisions were made for respecting and protecting certain local usages much valued by the Celts of Galloway—just as under the Norman Sovereigns of England respect was paid to such local customs as Gavelkind in Kent. But never in any part of Scotland, once it had been brought under the National Monarchy, were Knights and Barons encouraged or allowed to hold property and to exercise powers under the old desolating practices of Celtic Feudalism. The remotest Earldoms and Baronies of the Highlands had been brought under the law of definite and Chartered rights, and the most powerful of the Chiefs had found it for their own interest to impose the same limitations and obligations upon their subordinate Vassals and Tenants. Somerled himself, the great Celtic Lord of the Isles, who was killed

when invading the Lowlands of Strathclyde in the middle of the Twelfth Century (1164), had adopted and enforced the system of written Charters. So far therefore, as acknowledged Law and the duties of loyalty were concerned, these had been universally established long before the reign of Bruce. Indeed, this had been well settled eleven years before he was born (July 12, 1274).<sup>1</sup> The Celtic Chiefs and people of the Hebrides had been allowed their choice—to emigrate with their property, or, remaining, to be governed in future by Scottish laws.<sup>2</sup> They do not seem to have had any reluctance in transferring their allegiance from the Sons of Haco to the descendants of Malcolm Canmore. By a treaty with Norway in 1266,<sup>3</sup> Alexander III., Bruce's predecessor in the Throne, had secured to the Crown of Scotland the Sovereignty of the Isles, and from that date forward there never was any doubt or question of the rightful or legal supremacy of the common Law and Statutes of the Realm over the whole of the western Highlands and the Western Isles.<sup>4</sup>

But although there was no "Pale" in Scotland beyond which the common laws and statutes of the Realm were out of place, there was a very large part of that Realm within which those laws could with difficulty be enforced. Not only remoteness and inaccessibility of geographical position, but the embodiment and predominance of Celtic Feudalism in the organisation of the Clans, placed in the hands of innumerable Chiefs a social and political power which was practically absolute. Removed from the centres of national life and interest, caring nothing for them, and engrossed with their own local ambitions and petty feuds, the Chiefs and population of all the Islands, and of a great part of the adjacent mainland, were a perpetual thorn, and at times a source of real danger, in the side of the Scottish

<sup>1</sup> *Lochmaben, Five Hundred Years Ago.* By Rev. William Graham. 1865.

<sup>2</sup> Tytler, vol. i. p. 40.

<sup>3</sup> Gregory, *Hist.* p. 23.

<sup>4</sup> Skene, *Celt. Scot.* vol. i. p. 495.

monarchy and nation. They exhibited in curious perfection the operation of a tendency in human society, analogous to the tendency which Darwin detects in animal structures,—to revert to an older type. I do not believe in the Savage origin of Man. But it is historically certain, that all races of which we know anything have passed through stages of comparative barbarism. There is an innate tendency under certain conditions to go back to these. We feel it even as individuals. In the midst of our own highly developed civilisation we are conscious, in sentiment at least, of the charm of stories depicting a “wild life.” In a few cases, and among the poorer classes, this tendency breaks through the bounds of sentiment, and passes into the realities of action. Darwin has told us how he was struck by the condition of the poorest savages in the world, the natives of Tierra del Fuego, when he saw a canoe full of them alongside his ship, and among them a woman who, naked herself, was suckling an equally naked child, whilst the snow and sleet of that pitiless climate were beating against her breast. Yet scenes hardly less piteous may often be seen among ourselves. There are men, women, and children—whole families, who in Scotland and England betake themselves to a life in the open air. Often with scanty clothing, and nothing to shelter them but a ragged tent, they brave the wettest seasons and the severest winters. I have seen a poor woman nursing a child under conditions of exposure hardly less apparently miserable than the mother whom Darwin saw in the Straits of Magellan. Yet the love of a wild, and almost savage life, is so strong on these wayside dwellers that it is almost impossible to reclaim them. I have known of houses being given to them, and opportunities of work ; but the old instinct returns, and the old life is resumed. The same tendency, and a like result, takes place on a large scale when whole tribes of men enter upon a backward course. More gradually, and with no violent contrasts to



make the changes visible or striking in any high degree, communities and nations may deviate from the path of civilisation, and wander back, without a single regret or sense of loss, to the ways of barbarism.

But the wild life of nations, and a relapse into its habits and pursuits, is a very different and a much more serious affair than in the case of individuals. The love of war is one of the most universal of these pursuits, and it has often been the most destructive. There is good reason to believe that to this cause alone was due the ruin of a civilisation in the New World which had made great progress, and the re-subjection of a great part of that Continent under the foot of the hunter and the savage. It is well worthy of observation, also, that there are some races more prone than others to such relapse, and this, too, from elements in the character which are in themselves eminently attractive. A quick and imaginative temperament, with strong passions and deep emotions, is precisely that which is most open to the love of adventure, most easily swayed by ambition, most readily incited by hatred or by revenge. Delight in songs and legends of the past, in which strength and courage, or both combined with cunning, are the great objects of worship, tend to keep alive, and to transfuse with intense reality, the feuds and animosities of the dead into the memory and hearts of the living. A people with such gifts, and with these gifts so unregulated and so perverted, may not only be in danger themselves of a relapse into barbarism, but may even have power to drag down men of other races who come within the circle of their influence. Just as in many individual men and women there are indefinable sources of attraction, which consist in Charm—sources of attraction which give them a power over others far beyond any reasonable measure, so it is with some races. Perhaps more than any other race of whom we have any knowledge, the Celts

have had this power of Charm. Their customs and usages, their poetry and their legends, their courteous manners, and their wild life, have always attracted the men of other races who have been brought into contact with them. Under the power of this temptation, Saxons and Normans have revelled in Celtic customs, have put into them a coarser spirit, have ridden them to the death, until they have come to represent nothing of liberty except licence, and nothing of law except licentious usages. The dwindled and degenerated representative of the great virtue of patriotism has shrunk into nothing better than passionate fidelity to some little group of men, not necessarily even of the same blood, but followers merely of the same adopted name and standard.

We have seen in a former chapter how Norman and Anglo-Saxon settlers in Ireland became the worst oppressors of the Irish, by descending below the level of their own native Chiefs, and conforming their habits and their conduct to the most corrupt of native usages. A process somewhat similar passed over the Chiefs and Barons of the Hebridean Isles and Coasts, many of whom were of Norman or of Norse descent, and almost all of whom were of more or less mixed blood. The marriage between Norse and Celtic usages could not fail to increase both the charm, the temptations, and the inherent vice of the wild life of both races. There are some outward forms and exhibitions of war, which, by their strength and poetry, tend naturally to inflame men's passion for it. The pomp and circumstance of great armies did not constitute the incitement of the Islanders. But the beauty and the winged swiftness of great fleets of galleys, each of them "walking the waters like a thing of life," each of them carrying its contingent of armed men from land to land, and pouring them forth on quiet shores to fight and ravage and destroy—these, celebrated with sounds of Harp and Song,

must have lived in the memory and in the imagination of "roving tribes and rude barbarians"<sup>1</sup> from one generation to another. It is difficult to conceive anything more exciting or inspiring to wild men inheriting the traditions of the lawless races, than the habitual prosecution of war in picturesque galleys rounding stormy capes, running up sheltered inlets, pouncing upon enemies unawares, and carrying off the harvests and the cattle of all who were not strong enough to defend them. But in this, as in many other cases, poetry and charm were the servants of corruption. Civilisation withered before the Clans, so long as their Chiefs were uncontrolled by higher laws than the usages of the Celt.

Having now glanced at the causes in operation, let us look at their actual results. In round numbers, 300 years elapsed between the coronation of Robert the Bruce and the Union of his Crown with that of England. Bruce was crowned in 1306. James VI. succeeded to the English throne in 1603. Calculating, however, not from the Coronation, but from the death of King Robert, the period embraced between these two events is only 265 years. It is well worth while to note the working of Celtic Feudalism during this time of little more than two centuries and a half.

The remainder of the Fourteenth Century, in which Bruce did his work and died, was occupied by the reign of his son David II. (1329-1371), of his nephew Robert II., the first Sovereign of the House of Stuart (1371-1390), and by part of the reign of Robert III., who continued to occupy the throne during the first six years of the following or Fifteenth Century (1390-1406). This first period of only 65 years, short as it is in the life of a nation, was marked by several events and several circumstances highly significant of the changes which had begun. The Chief who was Lord of Islay and the Southern Islands had been faithful to the cause of Bruce, and

<sup>1</sup> Johnson's *Journey to the Hebrides*.



had been rewarded for it. But he and King Robert died about the same time, and his son, though distinguished in many ways, and a great favourite of the Church, exhibited, through a long and successful life, that striking peculiarity of the Celtic race—that their fidelity is to Persons and not to Principles. The House of Islay ceased to be faithful to the Crown of Scotland the moment Robert the Bruce had ceased to wear it.<sup>1</sup> The cause of Scotland and of National independence was nothing to him. His father's King and companion in arms was dead, and John of Islay felt free from fealty. Within 15 years of the death of the Great King, David II. had serious difficulty in coming to a peaceful arrangement with this powerful Chief. Once in 1344,<sup>2</sup> and again, after the lapse of 25 years, in 1369,<sup>3</sup> the same danger arose of a rebellion of the whole Insular and West Highland population. On the last of these occasions David II. had to support his negotiations by large military preparations.

But this was not all; nor was it by any means the worst indication of a great political danger. In spite of a marriage with a daughter of the Steward of Scotland, who, in 1371, succeeded to the Throne as Robert II., John of the Isles was in constant communication with the English Kings, who were at perpetual war with his own Sovereign, and were the hereditary enemies of the independence of Scotland. To such an extent was this system carried, that when in 1388 a temporary truce was made between the two countries, the agreement was openly signed on one side by the Lord of the Isles as an ally of the King of England. Considering that by an earlier marriage this Lord of the Isles had re-united all the Northern Isles with the great possessions of the Earldom of Ross on the mainland of the Western Highlands, we can estimate the formidable danger to which the Scottish Monarchy was exposed from the absolute powers wielded under Celtic Feudalism by such a

<sup>1</sup> Gregory, *Hist.* p. 26.

<sup>2</sup> *Ibid.* p. 27.

<sup>3</sup> *Ibid.* p. 28.

strong-handed Chief over his subject Clans. This danger increased under the succeeding generation. John of Islay's son, Donald, though nearly related through his mother with the royal family of Scotland,<sup>1</sup> was a far more rebellious subject than his father. In strict accordance with the tendency to increasing corruption which seems to have been inseparable from the unwritten Feudalism of the Celts, his disaffection and his conduct took a lower and an almost purely predatory type. In 1392 another great Highland Chief gathered his following of the Clans, burst down the slopes of the Grampians upon the oldest and most settled civilisation of the East of Scotland, defeated the Lowland forces in the battle of Gaslune, and ravaged the whole districts of Angus and the Mearns.

But significant as these events are of the nature and tendency of Celtic Feudalism, I am not sure that they are so significant as two other incidents or passages of the same period, which in themselves may seem more grotesque than serious. They exhibit in two very different forms the dangerous attraction which savage customs, and the usages of a wild or lawless life, are capable of exciting over men who by race, birth, and education have risen to higher things.

There was then no blood in Scotland of more purely Norman origin than the House of Stuart. That name, as is well known, was of merely official origin, the family having long held by an hereditary tenure the great feudal office of Seneschal, or High Steward of the kingdom. This office had been granted to their ancestor in the reign of David I., and therefore some time before 1153. It had been confirmed by a Charter of Malcolm IV. in 1157. They had, therefore, a Scottish history and pedigree running through more than 200 years at the time of which we are now speaking. But, like the family of the Bruce, they had come over to England with

<sup>1</sup> Gregory, p. 29.

the Conqueror, and had been first settled by him on great manors and baronial possessions in Shropshire, in the heart of England. Alan, the son of Flathald, was the name of the Conqueror's friend, and the title of Fitz Alan, now united with the Howards of Norfolk, comes by direct descent from them. Like the Bruces they moved northward with many other Norman Barons when the connection became more intimate between the Knighthood of the two countries. In Scotland they became the founders in 1160 of the Great Monastic House of Paisley, and had there planted a branch of the Cluniac Monks from an older Foundation they had made at Wenlock. It does not appear that they had any Celtic blood at all except that which at a much later date they inherited through their marriage with a daughter of King Robert the Bruce—an alliance through which they at last, in 1371, succeeded to the Throne. Robert II. was the eighth in descent from the first High Steward, and of his seven predecessors only one seems to have been allied by marriage with any Celtic House. This one exception was the fifth High Steward, who married a daughter of James Macrory, the Lord of Bute—a truly Highland name, and no doubt of as purely Celtic origin as any in the whole muster of the Clans.<sup>1</sup> The small Celtic element, therefore, which existed in the blood of the Stuarts was of the noblest type—the far-off strain of Malcolm Canmore, reinforced in later times by alliance with those descendants of Somerled in the Southern Isles who were most faithful to the cause of Bruce. It would be difficult to conceive an original descent, or a subsequent line of succession, or a course of life through many generations, which could have been better adapted to implant in any breed of men the best and highest tendencies and accomplishments of their age. Born and bred in the best times of chivalry, seeing and taking part in the rising civilisation, which, from Malcolm Canmore to

<sup>1</sup> Douglas's *Peerage*, s.v. Albany.



Robert the Bruce, was amalgamating the Celt, the Saxon, the Norman, and the Norseman into one people, and consecrating everything that was good in old customs under the strong authority of equal laws, the Stuarts ought not to have been easily tempted to fall back into barbaric habits of which they could have had no living memory or tradition. Yet one of the most prominent occurrences of this last part of the Fourteenth Century was the part played in the Highlands by a member of this great Scoto-Norman family. No less high a member of it than a younger brother of the first Stuart King, Robert II., was granted great landed possessions in the Central Highlands, whilst by marriage with an heiress he acquired also the extensive lands, or many of them, belonging to the old Celtic Earldom of Ross. In this position he at once found himself invested with absolute power over innumerable Clans who were ready to "go anywhere and do anything" which he chose to direct. Under this temptation he developed such ferocity of character, and perpetrated such deeds of cruelty, that he acquired in his own day, and has since been known in history as the Wolf of Badenoch.<sup>1</sup> A recent authority has described him as "a species of Celtic Attila."<sup>2</sup> His son, though he served in more civilised warfare with the chivalry of France, seems in his early life to have been a worthy representative of his father. He became Earl of Mar, and was a considerable figure in his day. It was under his command that the Clans were launched against the Lowlands in 1392, and routed their defence in the battle of Gasclune.<sup>3</sup>

The second incident of this period, which still more curiously illustrates the same principles, is one which stands alone, not only in the history of Scotland, but in the history of any modern nation. The gladiatorial shows of Rome are associated in our minds with the worst days of imperial corruption,

<sup>1</sup> Burton's *History of Scotland*, vol. iii. pp. 97-9.

<sup>2</sup> Tytler, vol. iii. p. 62.

<sup>3</sup> Burton, *ut supra*.

and the worst degrading exhibitions of Pagan customs. They have had no counterpart in modern times. In the days of chivalry the contests of the tournament were not intended to be deadly, and, although sometimes loss of life occurred, this was purely by mischance, and all the rules of the game were inspired by a spirit even of gentleness as well as honour. Yet in days when chivalry had not declined, and not long after the heart of the Bruce had been cast into the squadrons of the Infidel by the Good Lord James Douglas, suddenly we hear of a scene recalling the most bloody exhibitions which aroused the savage tastes of Nero or Caligula. In that beautiful Valley which so struck the Roman Legions, that when it burst upon them from the top of its enclosing hills, they threw up their spears and shouted "Ecce Tiber,"—on the fair green meadow which borders the River Tay, and is called the "North Inch of Perth,"—all the chivalry of Scotland were assembled on the 23d of October 1396, to see a deadly fight between two bodies of wild Highlanders, sixty in all—thirty on either side. The King himself was there, with all his Court and Nobles, and a vast crowd of men of all ranks and stations. The combatants, like the gladiators, were devoid of defensive armour, and were to fight only with their native weapons, knives, axes, swords, and bows. So exciting was the scene, and such was the contagion of barbarism which it induced even in peaceful men, that on the flight of one of the Highlanders who dashed into the Tay and escaped, one of the spectators—an artificer of Perth, possibly of Celtic blood—came forward and offered the sacrifice of his life to fill up the blank. This being accepted, the bloody work proceeded. At the end of the butchery, on one side only one man remained alive, on the other, only ten, and these all wounded. Nobody, to this day, can make out with any certainty whence these men came, whom they represented, or why they fought. The most

favourable view of it is that it was a Trial by Wager agreed upon as a means of settling a Clan feud, and of preventing still more extensive bloodshed. But there is no satisfactory evidence that it settled anything, or that it was ever intended to do so. Whatever it arose from, it was made a great spectacle. An enclosure was made and the lists were kept. As the historian tells us, "It was the nature of the beings brought together to fly at each other like wild cats, and kill in any way they could."<sup>1</sup> Such names as the "Clan Kay" and "Clan Qwhale" appear in the chronicles of the time as the Lowland guesses as to the particular Celtic Clans which furnished the victims. These names, evidently corrupt, have been plausibly translated into the Clan Chattan and the Clan Cameron.<sup>2</sup> There is only too much reason to believe that the ferocious habits of the Clans, having then become notorious, and having very probably furnished the theme of exciting stories, and the subject of sentimental admiration to men who saw in them at least a contempt of death, these poor Highlanders had been bribed by the promise of reward to the survivors, to furnish forth this horrid spectacle to the chivalry of Scotland, with its guests from France. If this be the explanation—and it is the only explanation at least of the publicity of the scene—it is a signal illustration of the dangerous attraction which some races have exerted by their barbarous usages upon men of a far higher civilisation than their own.

With the exception of some obscure references in the old *Book of Deir*, in which such family names as Morgan are spoken of as representing "Clans" in the Lowlands of Buchan, the first mention of this word in the history of Scotland stands connected with the Gladiatorial Exhibition in the North Inch of Perth, and with a Brief of Robert III., in 1390, against the murderous followers of the Wolf of Badenoch. I speak of the name, or the word—

<sup>1</sup> Burton, vol. iii. p. 72.

<sup>2</sup> Skene's *Celtic Scotland*, vol. iii. pp. 314-15.



not of the thing or the system which it represents. That system is as old as the existence of wild and lawless conditions of society in which the weak cluster round the strong, both for protection and in order to share in the spoils which strength only could secure. But it was not till towards the close of the century in which King Robert the Bruce died that the Scotch people recognised the new conditions under which they were henceforth to live within reach of the race which had so often stood shoulder to shoulder with them in the battles of Independence. Somewhat suddenly their eyes were opened by a bitter and a new experience. But nine years before the spectacle of massacre between the "Clan Kay" and the Clan "Mac-Quhele," the Parliament of the Kingdom had been compelled to take notice of the habits which were becoming developed under the licence of Celtic Feudalism. In 1385 we have the first of a long series of statutes passed for the defence of the country against the robberies and the raids of those who now came to be known under the name of "Katherans." All the subjects of the Crown were encouraged and exhorted to resist and to arrest them, and it was provided that if the Katherans resisted, the killing of them would be no murder, and no crime.<sup>1</sup>

With these events, we have fully entered on the epoch of the Clans. The bloody spectacle on the North Inch of Perth was a mere outward symptom of more serious things. In the first law directed against the Highlanders as Katherans—in the systematic treachery of the Lords of the Isles towards the national cause—in the savage rebellions and ravages of the Wolf of Badenoch and his son—brother and nephew of the King (Robert II.)—in their power to wield the force of whole hordes of men who followed them without any real tie of Tribal or blood relationship—we see the dangerous alliance

<sup>1</sup> *Act. Parl.*, vol. i. pp. 186-7.

between the absolute despotism of Celtic Chiefs and the mere forms of Feudal Law. Most of these Chiefs held Charters; but they used these Instruments of legal possession, and of lawful powers, only as blinds and covers for an unwritten code of usages utterly without law, limit, or restraint. The primeval Tribal system,—its poetical family origin, and its peaceful pastoral associations,—must no longer be confounded with this terrible system of military aggregations round red-handed Knights who were mere deserters and apostates from a higher civilisation. The sentimental admiration for them and for their followers is little less corrupting now than it was in the Fourteenth Century. It is a terrible mixture when violence and anarchy put on the robes of order and of law, and plead the authority of its noblest instruments for deeds and principles which they were invented to rebuke and to supplant.

One of the most careful and accurate of our national historians has pointed out more clearly than others the fundamental distinctions between all that we admire in the theory of Tribal Institutions, and the true nature of the Highland Clans when they first come into the light of history. "Powerful Chiefs," he says, "of Norman name and Norman blood had penetrated into the remotest districts, and ruled over multitudes of serfs and vassals, whose strange and uncouth appellatives proclaim their difference of race in the most convincing manner."<sup>1</sup> These Chiefs used any legal power which they could find in Charters to strengthen or sustain the most absolute authority, but without themselves conforming to any feudal law whatever, either in their relations to those below, or to those above them. At a later period it became a common system through "Bonds of Manrent" to recruit from every quarter men who in return for protection, and for employment in common

<sup>1</sup> Tytler's *History of Scotland*, vol. iii. p. 214.

robberies, deliberately bound themselves over to be obedient followers and retainers. Thus, although the position and authority of Chiefs was generally founded on territorial property, it was to a great extent independent of it—did not flow from the same sources of legal possession, and was continually used to coerce and overawe men of smaller property who could not command the same armed following.

This distinction cannot be too clearly kept in view, because it is fundamental in the history of the Highlands for more than 300 years. It was not the chartered rights of landed Ownership, but the unchartered absolutism of Celtic Chieftainship, that made the Highlands for several centuries a scourge to themselves, and a danger to the nation. It can be clearly shown—so deeply marked is the distinction—that in direct and exact proportion as Highland Chiefs and Chieftains could be induced, or were enabled by the condition of the country, to live and spend their time simply as great Landowners, with the fullest rights of property, and all the chartered powers of Baronial Jurisdiction, in the same proportion did the districts under them advance in wealth and civilisation, and their people cease to be a terror to those around them. On the other hand, it can be shown with equal clearness, that in direct proportion as the principal families in the Highlands were purely or predominantly Celtic, leading only the life, and exercising only the tremendous powers of Celtic Feudalism, in the same proportion did the country go back to desolation, and the people to the most utter barbarism.

It is precisely due to this great distinction that we have a corresponding difference between two great areas of the country which are separated from each other by a well-marked line of physical geography. Roughly speaking, this line runs along the “watershed” of the mountains from which the streams divide to the West and to the East—that irregular mass of hill country which was



anciently called Drumalban, and at a later period the "Mounth." But practically we may take the dividing-line to be that which catches every eye that looks intelligently to the map of Scotland,—the line which the Celts called Glen More—or the Great Glen—running across the whole Island from south-west to north-east, and occupied by the chain of Lakes, of which advantage was taken in the construction of the Caledonian Canal. The whole Highlands to the east and south of that Great Glen, with its prolongation southwards among the Islands, was comparatively accessible to the advancing civilisation of the Eastern and South-Eastern Lowlands—a civilisation which crept up slowly but surely along the Valleys and the Firths and Lochs leading into the areas which were the centres of the early Monarchy. On the other hand, all the Highlands and Islands which lie to the west and north of that Great Glen were less accessible to the same influences, were more exclusively Celtic in their population, and were more absolutely under the dominion of Celtic usages. There the great families did not live merely as great Proprietors, but altogether in the much more absolute and formidable character of small Monarchs commanding the hereditary services of an armed and lawless population. Clustering round the memory and traditions of two Old Celtic Dignities—the Lordship of the Isles, and the Earldom of Ross—and fighting fiercely with each other, first for the succession to these, and next for the possession of the bits and fragments of them—the West Highland Clans lived perpetually such a life of war and rapine as that which was only too closely imitated by the great Norman Baron who disgraced the blood of Robert the Bruce under the name of the Wolf of Badenoch.

Gregory, in his *History of the Highland Clans*,<sup>1</sup> was the first to point out clearly this great geographical

<sup>1</sup> See Preface, pp. i-ii.

distinction, which marks a corresponding distinction in the social and political development of the two districts. He goes so far as to say that the history of the Eastern and Western Highlands cannot be written in the same book. This is a great exaggeration. Neither in geography nor in social condition was there any hard and fast line. Glen More was not impassable to the Clans on either side, neither was it impassable to habits and institutions. Charters and Leases existed in the West, and Clan feuds and fights were not wanting in the East. Still, it is true that on the western side of the line the written laws of property were long submerged under the unwritten codes of Celtic usage, whilst on the eastern side these became gradually checked and subordinated to the precepts of a settled jurisprudence. This was the root and cause of the difference between the two areas, and it is one which arises out of the very nature of things. The corruption of human nature is a law which we cannot afford to abandon to the theologians. Historians and politicians must take note of it as the whole secret of the most characteristic facts. Hence comes the danger of mere usages as distinct from laws. All usages tend to abuse, from which nothing can keep them except the arresting barriers of written law and recorded judgments. It is the grossest of all errors that traditional customs tend to the preservation of popular liberties. They tend on the contrary to the exaggeration of power, and to the continual aggrandisement of the strong. There may, indeed, be usages which rise to the dignity of laws, and every civilised system of jurisprudence recognises as such all customs which are capable of definition, and can be classed as the real but unexpressed conditions under which all Covenants were made. But Society cannot be built up on the quicksands of shifting memories, and of loose allegations incapable of proof. These are always wrested, as we have seen that Celtic Feudalism did wrest them,

to strengthen and to aggravate the abuses of personal strength and of personal ambition.

We can see then how it was that for 300 years, after the close of the century in which King Robert the Bruce had done his great work of amalgamation, that work was being steadily undone, as far as they could undo it, by the Celtic Clans. In the eleventh year of the new century, in 1411, Donald, Lord of the Isles, with an army, it is said of 10,000 Clansmen, attempted the overthrow of the Scottish Kingdom by a regular invasion. They were with difficulty repulsed in the bloody battle of Harlaw; and the final but hard-won victory of the Lowland forces was universally felt in Scotland to be a deliverance not less happy than the deliverance which had been achieved at Bannockburn. One signal note of its value is to be found in the circumstance that the contagion of Celtic Feudalism had done its worst. Alexander, Earl of Mar, son of the Wolf of Badenoch, had now returned to the allegiance of his blood and race. He commanded the Lowland gathering of that higher Feudalism which rested on written Charters, and on loyalty to acknowledged obligation. Under this banner of civilisation he distinguished himself by the most desperate valour. The Eastern Highlands, therefore, in the person of one of its most powerful Chiefs, were now committed to, and associated with the same cause.

Twelve years later, in the Fifteenth Century, we enter on the period of "The Jameses." The first Sovereign of that name, and perhaps the most distinguished, assumed the crown in 1424. He and five successors of the same name, with the tragic interlude of Mary, occupy the 179 years which elapsed before the sixth James succeeded to the English throne. No more troubled and turbulent time has perhaps ever passed over any people which still retained the elements of progress and of civilisation. But in spite of all the years of war, rebellion, anarchy, and bloodshed, those elements



were retained, and some of the most fruitful of them were strengthened and developed. The Clergy of the Latin Church had not yet learned to be afraid of Learning, and under their influence the Fifteenth Century saw the foundation of the three oldest Universities in Scotland, St. Andrews, Glasgow, and King's College, Aberdeen. Some sound and excellent legislation, as we have already seen, was passed for the restraint of violence, and for the encouragement and security of Covenants between man and man. A Supreme Court was established for the administration and interpretation of the law, and some steady progress was made, both by new enactments and by systematic decisions, in the general understanding of civil obligations. In the south-western mainland of the Highlands, as well as in the eastern Highlands, the growing power and influence of the Chiefs who had taken part with Bruce, and who continued faithful to the Monarchy he had restored, were turning to good account,—as loyal men can always turn them,—the force and fidelity of their Clans. But with this exception, the working of Celtic Feudalism during the whole of the Fifteenth, and the whole of the Sixteenth Centuries, presents little more than one continued spectacle of all the worst vices which can afflict or destroy a nation. So long as the Lordship of the Isles existed, or the Earldom of Ross, the Islanders under those Chiefs were systematically disloyal to the Scottish Monarchy. In 1462 they entered into a formal treaty with Edward iv. of England, for the subjection and partition of the Kingdom.<sup>1</sup> This led to the final suppression of the Earldom of Ross and its annexation to the Crown.<sup>2</sup>

But treachery to the Monarchy was only replaced by treachery to each other among all the Clans and Chiefs, between whom the spoils were divided. There is no more miserable history than the history of the Highland and Island Clans during this period.

<sup>1</sup> *Gregory, History of the Clans*, p. 47.

<sup>2</sup> *Ibid.* p. 50.

If we silence our moral judgment altogether, it is of course possible to pick out picturesque incidents, and to bestow our admiration here and there on displays of mere animal courage. But when one compares this wretched epoch with the older and nobler time when one great man had taught the Celtic population of the Highlands how to fight in a great cause and for a great purpose, it is impossible not to turn with disgust from a perpetual recurrence of plunder and devastation, of cruel massacres, and of the most treacherous murders. Even where the Celtic Chiefs were induced sometimes to send some contingent to strengthen the national army, they could hardly be withheld from fighting out their own feuds and quarrels in the presence of the common enemy. Sometimes, even in moments of common misfortune, and of national overthrow, the passions of Celtic Feudalism could not be restrained from atrocious acts. On the fatal field of Flodden, when the King and half the nobles of his Kingdom, with a corresponding proportion of their men, fell under the spears and arrows and battle-axes of the English army, it is related of a Highlander of the Clan Mackenzie, that he heard those near him exclaiming, "Alas! Laird, thou hast fallen." "What Laird?" shouted the Celtic Clansman. In the answer, "the Laird of Buchanan," he heard a name with which his own had a blood-feud. Then and there the "faithful Highlander," as he is called by the sympathetic historian, sought out the fallen Laird, found that he was only wounded, and butchered the helpless man without ruth or pity. Even this, however, is by no means the most revolting kind of deed which was only too common among the Clans. There was one Chief of the name of Macian, possessing Ardnamurchan, who was in perpetual feud with the Macleans of Mull. But the softer passion on one occasion brought about an apparent reconciliation, when the Chief Macian was a suitor for the hand of a daughter of Maclean. In

1588 the Macians were cordially invited under assurance of peace, to come to the wedding of their Chief. The wedding over, with feast and wassail, and one of the houses of the country assigned to the wedded pair,—in the middle of the night the Macians were surrounded by the Macleans and massacred to a man—the Chief only being spared to the shrieks and entreaties of his wife.<sup>1</sup> In a raid of the Clanranald against the Mackenzies of Kintail, a whole congregation was burned to death in the Church of Gilchrist, whilst the piper of the Macdonalds played round the building to drown the frantic cries of the victims. This was so late as 1603, the year of James VI.'s accession to the English crown.<sup>2</sup>

In visiting the lofty and striking precipice which surmounts the Island of Eigg, called the "Scoor," every stranger is shown a spot where a similar atrocity was committed. In the standing feud between the Macdonalds and Macleods the whole population of Eigg, invaded by a superior force, had taken refuge in a cave, the entrance to which is narrow and concealed. Here they were discovered, and the Macleods enjoyed the savage pleasure of smoking the whole of them to death, some 200 in number, by fires lighted at the mouth. When Sir Walter Scott visited the cave in 1814, the bones of the victims still covered the floor, and he carried off a skull which seemed to be that of a young woman.<sup>3</sup>

It is needless to say that where human life was so little regarded, property was still more universally held as a prey to the spoiler. Occasionally we have details of the ravages committed. Thus, in 1455, the Islanders attacked the Southern districts of Cumbrae and Arran, from which they took 500 horses, 10,000 cattle, and more than 1000 sheep and goats.<sup>4</sup> In this case it is specially mentioned that the Clans did not murder more than a score of men,

<sup>1</sup> Gregory, *History of the Clans*, pp. 238-9.

<sup>2</sup> *Ibid.* p. 303.

<sup>3</sup> Lockhart's *Life of Scott*, vol. iii. p. 240.

<sup>4</sup> Gregory, *History of the Clans*, p. 44.



women, and children. Such robberies as these, and they were common, must have reduced whole districts to poverty for many years. In a long-standing feud between the Macleods of Skye and the Mackenzies of Lewis, we are told that at one time, about the close of the Sixteenth Century, both Clans were reduced to the verge of ruin, and that the people had to live on horses, dogs, and cats.<sup>1</sup>

These are but a few examples of the whole course of history in the Islands and Western Highlands during the Fifteenth and Sixteenth Centuries. It will be obvious that such a condition of things tended inevitably to render more and more absolute the power of the Chiefs over all whom they recruited to become members of their Clan. To be under the protection of some powerful Chief was the only chance of enjoying any peace or any safety for the dependent classes. Those of them who were themselves little better than soldiers of fortune had indeed a different inducement with the same result. Accordingly, the Crown and Government of the Kingdom, in their perpetual contests with the Western Chiefs, determined, in 1496, to assume, as they had a good right to do, that those Chiefs were really responsible for everything done or left undone among those over whom they ruled so absolutely. An Act passed by the Lords of the Council in that year provided that the Chief of every Clan should be held responsible for the due execution of all legal writs against the men of his own Clan, under penalty of being himself made liable to the party bringing the action.<sup>2</sup>

Not long after, in 1502, the Government tried to deal with the great evil of a purely military population, the obedient followers of the Chiefs, settling in the country, to the exclusion, or supplanting, perhaps, of the older settled population who may have been the truer representatives of the

<sup>1</sup> Gregory, *Hist. of Clans*, p. 296.

<sup>2</sup> *Ibid.* p. 91.

ancient Clans. In dealing with lands resumed by the Crown in Lochaber, the Royal Commissioners were desired to let the lands for five years to "true men"—that is, men loyally affected to the Crown—and to expel all "broken men" from the district. This was the regular Parliamentary phrase now established by which the military following of Chiefs was designated; and so numerous had this class become that the historian observes of this part of the country, that in the state of affairs then prevalent, the order of the Lords of Council "was equivalent to an order to expel the whole population."<sup>1</sup> But here it is important to observe that the Commissioners were ordered to exert upon the Crown lands, in Lochaber, exactly the same full rights and powers of Ownership, which the Highland Chiefs had long been exerting upon their own lands. In both cases the Proprietors of those lands were disposing of them in favour of men who could be counted upon as "true" to them. It was, in fact, a process of a "plantation"—that is to say, the colonising of certain lands with Tenants who would be loyal to the Owner of them. If the truth could now be fully traced, and if we could exactly see how large tracts of Highland country, which had been devastated by murderous raids, came to be re-peopled and re-settled by so-called "Clansmen," we should probably discover that in numberless cases the process was the same, and that Clans were largely recruited, if not sometimes almost wholly replaced by "broken men" enlisted from other districts. Such men owed everything they had in the new plantation to the Lords and Owners of the soil on which they came to seek employment and protection. Here and there a case is recorded which may well lead us to suspect how common it must have been. One of these occurs in the history of those Eastern Highlands which were, on the whole, so much less troubled than the Western. It

<sup>1</sup> Gregory, *History of the Clans*, p. 97.

is a hideous story which is told in the *Chiefs of Grant*.<sup>1</sup> In revenge for the murder of a kinsman somewhere in the valley of the Dee, the Chief of Grant had incited and joined the Earl of Huntly in slaying all the men in the country of the Dee where the murder had taken place. Some time after, on visiting Huntly at his castle of Strathbogie, he was shown between sixty and eighty orphan children who had been carried off when their fathers were slain, and were now fed at one long trough, as pigs are fed, one row of children eating at each side. This sight is said to have caused such remorse to the Chief of Grant that he carried off the whole of these children from one side of the trough and took them to his own estate on Strathspey, where they were settled, taking the name of Grant, whilst those on the other side of the trough were in like manner kept by Huntly, and took the name of Gordon.

If these things were sometimes done in the green tree of the Eastern Highlands, how often must they have been done in the dry tree of the Western Clans! It is beyond doubt that a large part of the population of the Highlands are the descendants of men who were moved about and planted from time to time by the Chiefs who disposed of their lands, whether acquired by inheritance or by conquest, precisely as the Crown disposed of the Braes of Lochaber, and as the Grants disposed of the upper valley of the Spey. In the Western Highlands, however, the Chiefs had a somewhat different end in view. In Lochaber the King planted men who were to be real farming Tenants, holding under Leases with their settled Covenants, and definite rents. In the Northern and Eastern Highlands, such families as the Chiefs of Grant aimed always principally at the settlement and improvement of their country. The Island and Highland Chiefs, on the other hand, planted men who were to be devoted mainly to fighting, whilst the possessions of the

<sup>1</sup> Vol. i. p. 113, note.



real old native population in corn or cattle were to be held subject to the arbitrary exactions of the most lawless Celtic Feudalism.

The state of things which had again arisen among the Western Isles towards, and after the close of the Sixteenth Century, is indeed hardly conceivable as co-existing with a national Government in Scotland. It was almost if not quite as bad—as dangerous and as discreditable—as it had been four hundred years before, in the days of Somerled and of his immediate descendants. The Chief who styled himself Lord of the Isles, Macdonald, Lord of Islay and Kintyre, affected all the airs, and assumed all the powers of an independent Prince. He did exactly what King Robert the Bruce had promised, some two hundred and sixty years earlier, he would not allow his subjects to do, namely, to attack England through her rebellious Irish. In 1595, Queen Elizabeth was in serious trouble from Tyrone's rebellion. Whether from hostility to the Reformed faith, of which Elizabeth was the great supporter in Europe, or from other motives, the Macdonalds, both of Islay and of Skye, allied themselves with Tyrone, and were ready with a great fleet of galleys and a formidable force to land in Ireland, and reinforce the rebels. But the astute Queen had friends as well as enemies among the Western Celts. The old loyalty of the Campbells to the Monarchy of Bruce, and their new loyalty to the Protestant religion, combined to hold them true against an alliance so hostile to both as the alliance between the Clan Donnell and the Romish Celts of Ireland. Accordingly the Earl of Argyll, in counter-alliance with the Macleans of Douart, and with some other septs, collected so large a force, and placed it in so strong a flank position, that the Macdonalds did not dare to pursue their expedition, and to leave their own territories to devastation. Other means, moreover, were employed. The great Ministers who served Elizabeth so well kept her well

informed. Divisions were sown among the Clans; preparations were made in time to meet them, so that when a small portion of their fleet reached the coast of Ireland, they were easily dispersed, and this new insular armada dissolved and disappeared.

In this incident we see how little centuries had done to change the nature of the Clans. Moreover, we have a sketch of one man in particular, to show how little time had changed the nature of the Chiefs. The description presented to us in history of the person and character of James Macdonald of Dunluce, cousin of the Lord of Islay and Kintyre, reproduces towards the close of the Sixteenth Century all the essential characteristics which we have seen marking the career of the Wolf of Badenoch towards the close of the Fourteenth. There is the same mixture of Lowland culture, of wide acquaintance with men and things, and of fierce and unscrupulous conduct in the exercise of an absolute local power. "He seems," says Tytler, "to have been a perfect specimen of those Scoto-Hebridean Barons, who so often concealed the ferocity of the Highland freebooter under the polished exterior which they had acquired by an occasional residence in the Low Country." It was his pleasure sometimes to join the Court at the Palaces of Falkland, Linlithgow, or Holyrood. There he was the gayest among the gay, giving rich presents to the Queen and her ladies, and fascinating all observers by the splendour of his tastes, and the graces of his person and manners. But suddenly some news from the West would trouble him, and then "Macsorlie"—this accomplished gentleman—would fly back to his native Island, and revel in the worst atrocities of the Clans.<sup>1</sup> This man, however, had perhaps acquired from his connection with the Celts of Ireland an exceptional ferocity. For in Ireland Celtic Feudalism had long reached the lowest stages of violence and corruption. But the

<sup>1</sup> Tytler's *History of Scotland*, vol. ix. pp. 252-3.

Hebridean Chiefs were too closely connected with those of Antrim to escape the desperate contagion. And so we have another member of the Clan Donald—a cousin of “Macsorlie,” who seems to have been by no means behind his kinsman of Dunluce. This was the son of the Lord of Islay and Kintyre, also highly favoured at the Court of James I., knighted by that Sovereign, and conspicuous in the history of the time as Sir James Macdonald. Of this man the incredible atrocity is recorded that in order to accomplish the death of some feudal enemy, he set fire to the house where his own father and mother were living at the time. Escaping with difficulty, and severely burnt, the father was confined in irons for several months—until, probably, he had consented to the transfer of his authority by a premature succession.<sup>1</sup> Assuming the command of the Clan, Sir James was soon involved in a furious contest with the Macleans of Douart, the circumstances of which are variously narrated, but which in the pages of Tytler<sup>2</sup> appear as an additional example not only of ferocity, but of the basest treachery. Maclean was an uncle of Sir James, but he was a firm friend of Queen Elizabeth, and of that Protestant cause of which she was the rallying centre, and the standard-bearer. The Macdonalds seem to have all been more or less in league with the Irish enemies of the Queen, and the determined enemies of the Clans who were most loyal to the Scottish Monarchy. On this occasion Douart and most of his men were slaughtered, and the Cause in which they had fought together, fell chiefly into the hands of the Campbells.

The interest of these stories, however, does not lie either in the illustrations of individual character, or even in the picture they present of the habits and manners of the time. It lies, rather, in the evidence they afford as to the condition of the people. It is quite certain that they were absolutely at the dis-

<sup>1</sup> Gregory's *Highlands*, pp. 281-2.

<sup>2</sup> Tytler's *History of Scotland*, vol. ix. p. 251.



posal of their Chiefs. Even when these Chiefs did not use them as soldiers, but left them to cultivate the ground, and employed mercenaries, all the resources by which these mercenaries were sustained came out of the ceaseless and unlimited exactions from the native husbandmen, which were the inseparable concomitant of Celtic Feudalism. All the minor Chieftains and all the retainers of the Chiefs were quartered on the people of the country, who were, besides, liable to be cleared off and removed as a matter of regular bargain among the Chiefs when they treated with each other for exchanges or extensions of territorial possession. The delusion that prehistoric "Tribal rights" had outlived the transforming processes of Clanship, and the absolute dependence of the people for many centuries on military Chiefs, is a delusion which is effectually dispelled if we look for a moment at the historical facts which emerge in all the transactions of this time. Thus it was one of the conditions offered to the Crown by Sir James Macdonald, in return for certain advantages, that he would give up Kintyre and remove "his whole Clan and dependers" from it, so that the lands should be completely cleared, and placed at the disposal of the Crown for the re-letting of it to new Tenants.<sup>1</sup> The Island of Coll had been similarly cleared in 1596 by the Macdonalds.<sup>2</sup> Everywhere and in everything the Chiefs were absolute, and the more Celtic Institutions were allowed their full development, the more abject became the condition of the people.

And now let us see the consequences. The evidence comes to us in the most formal and authentic shape. Soon after James VI. united the two Crowns, he resolved, as so many of his ancestors had resolved before him, to restore peace and law to the Islands and Highlands of his native country. After several abortive expeditions and negotiations, for this purpose he appointed a special Commissioner who was

<sup>1</sup> Gregory, p. 288.

<sup>2</sup> *Ibid.* p. 269.

to visit the Hebrides and call the Chiefs to a friendly conference. The Commissioner selected was the minister who had accepted the Bishoprick of the Isles and the Deanery of Iona, under the new Episcopacy which James had then restored. Whatever doubts the Presbyterian people of Scotland may have had as to the constitutional character of the proceedings under which the Restoration had been effected, no such doubts could affect the Island Chiefs. Constitutional illegality was the very last thing that could offend, or even be observed by Highlanders amongst whom the Reformed faith and the Presbyterian Church had as yet made but little way. They were probably rather conciliated by this renewal of an ancient Dignity, and they came in numbers to meet the Commissioner of the Crown. The place of meeting was wisely selected as one that was attractive to them. It was that Holy Island, in whose ancient Churchyard all the Kings and Chieftains of the Isles had been buried for 900 years. Their descendants seem to have come willingly to the place where probably many of them had come before to bury their own Dead, in the same sacred soil. And there they finally came under certain solemn engagements, founded on a narrative and confession as to existing evils, which have become known in Scottish history as the "Statutes of Iona."

These authentically reveal to us both the condition to which the country had been reduced and the causes which were now acknowledged to be at the root of its decline. The Bond which the Chiefs subscribed proceeded on the narrative or confession of "the great misery, barbarity, and poverty unto which, for the present, their barren country was subject." Nor were these sweeping words used without adequate explanation in detail. Religion had fallen into universal decay. The old order had passed away, and no new order had been established in its place. The clergy had been starved and banished. The Churches had been allowed to fall into ruins.



THE VIEW COLUMBA SAW FROM HIS MONASTERY ON IONA.





Christianity had become little more than a memory and a name. Marriage itself had ceased to be an institution of general obligation, and had largely been replaced among the people by an old Celtic barbarous custom called "Handfasting," which was a contract of union for some short term of years only. It is difficult to conceive a more terrible indictment against any system of life and government than that which was admitted and acknowledged to be true of the country which had been so long under the sway of Celtic Feudalism. Nor are the promised remedies and reforms less eloquent than the general confession. The Statutes of Iona numbered nine in all—referring to so many separate measures to be taken, and to the taking of which all the Chiefs solemnly bound themselves by an oath under the most solemn sanctions of a most solemn place. Of these nine Statutes it is a memorable fact that no less than four were directly aimed at abuses which were the invariable product of the unwritten laws and usages of Celtic Feudalism. These abuses indicate precisely the same conditions of absolutism on the part of the Chiefs, and precisely the same kind of sufferings on the part of their people, which we have seen Sir John Davies denouncing in Ireland about the same time, and both of which were the natural and necessary results of loose and traditional customs smothering written laws and definite agreements.

The first Statute which bears upon these was one for the establishment of Inns, on the express ground that the burden of supporting all strangers had hitherto been thrown upon the Tenants and labourers of the ground. The second Regulation touching the same subject, struck at another form of the same abuse, namely, the multitudinous retainers and personal attendants of the Chiefs, the cost of whose support was also habitually thrown on the same helpless classes in addition to their usual rents. These retainers were in future to be

limited in number, and it was specially provided that each Chief should support his Household out of his own regular rents, and not by indefinite exactions levied from his Tenantry. When we look into the rules laid down under this Statute, which indicate the number of personal retainers which was thought reasonable for the station of the leading Chiefs, our eyes become opened to the prevalent delusion that the dues paid by the occupying class to the Owners were light and easy under Celtic Feudalism. The habitual entertainment of gentleman-followers to numbers varying from ten to eight, or from six to three, by each of the Chiefs and Chieftains of the impoverished Hebrides, indicates an immense drain on the sources of such a country. When we remember that these gentlemen-retainers were men who lived at the same board with the Chief—that hardly any articles of foreign produce, except wine, were then imported—that they did no work of a productive kind—that they were supported in addition to the servants necessary for work,—we must come to the conclusion that the rents paid in produce by the people must have been relatively very much greater than are paid in modern times. There are very few Landowners now except some of the very richest, and certainly there is no mere Highland Landowner, who would not find the habitual entertainment of six or eight gentlemen at his table all the year round, an intolerable, or perhaps even an exhausting burden, when added to the unavoidable cost of service. We may well conceive then what the habitual oppression of the people must have been under the native usages which rendered it habitual to throw burdens indefinitely heavier than this upon the Tenants in addition to any fixed or stipulated rents. The third Statute of the same class applied the same principle to all who were “Sorners” in the country, that is to say, persons living at free quarters upon the poor inhabitants.



The Fourth Statute aiming at reform is perhaps the most remarkable of all, because it touched one of the most purely native and the most characteristically Celtic habits of life which prevailed in the country, and which in itself might appear to be the most harmless, as it certainly was one of the most poetic and the most attractive. This was the habitual entertainment of travelling Bards who by Harp and Song handed down the stories and traditions of the Clans. But it was precisely in this attractiveness that the danger lay. The bloody experience of many centuries had shown, and the exhausted condition of the country then showed, that the very root of the evil lay in the deathless animosities between Clan and Clan, and the cruel passions which were developed in the prosecution of them. It was the very business of the Bards to carry these on from generation to generation, and by all the incitements of voice and of stringed instruments to keep every offence from being forgotten, and every deed of barbarous revenge from being repented of. Sitting in the hall of some strong Keep, built upon a stormy headland or a sheltered Islet,—or in the one long undivided apartment which occupied the whole of a house built of turf and wattles,—the Bards kept up round roaring fires, and in the midst of still more uproarious companies, the unquenchable flames of hatred and revenge. Thus a barbarous Past was kept from ever becoming a Past at all. Time was not allowed to have any effect in softening manners, or in bringing about the oblivion of injuries. So real and so practical was this tremendous evil that we read of one feud between two Clans—the same, it is believed, that fought on the Inch of Perth—whose feud is known to have lasted fully 300 years.<sup>1</sup> Of all the causes which led to this condition of things, and kept it up, the Bards were the incarnation. It was, therefore, from no idle Lowland prejudice, but

<sup>1</sup> Gregory's *History*, p. 78.

from the true and instinctive perception of the authorities who were brought face to face with the problem how to redeem the Islands and Western Highlands from utter barbarism, that they called upon the Celtic Chiefs to suppress the Bards, and that the Bards themselves were threatened first with the stocks and then with banishment.<sup>1</sup>

The best remedy, however, which was provided by the Statutes of Iona, was that which provided for a re-establishment of a free communication with the more civilised portions of the Kingdom such as might bring about once more some amalgamation of the two races, and some community of thought and sentiment. With this view it was provided that every Highlander who possessed as much as sixty head of cattle should send his eldest son or his eldest daughter to school in the Lowlands, till he or she had learned to speak, read, and write the English language. It is said that this provision, as much as any other, had speedy and permanent effects—that it led in the next generation to that personal loyalty to the House of Stuart which many of the Islanders displayed in the following century. Representing, as I do, a Clan and family who were true to the Stuarts so long as the Stuarts were true to the Laws and Constitution of their country, but who preferred that Law and Constitution to any mere personal affection, I can only in imagination admire the opposite preference shown by the Jacobite Clans. But at least their conduct, in that great division of opinion, exhibited an unspeakable elevation of character above that which had so long been spent on their own broils. Those who are faithful to a great Cause with all its attachments of intellect and heart, must ever rank higher in the history of civilisation than those who are faithful merely to a great Family. But it is impossible to praise too highly the unselfish and incorruptible devotion with which so many of the Celtic Clans, and the

<sup>1</sup> Gregory's *History*, pp. 330-33.

poorest members of these, resisted the bribes and threats of a powerful government equally strong to punish or reward, in their protection of the Royal fugitive who lived so long in the cliffs and caves of Skye. There was not only genuine poetry in it, but genuine virtue too. It is an immortal page in an otherwise rude and melancholy history, and has conferred upon the Celtic character a just and imperishable renown.

We have, however, a signal illustration of the elements of charm and of attraction which that character has included, and of the somewhat distorting effect which has been exerted by its poetry and romance, when we look at the popular estimate which has been formed of the Clan system as it existed in the Celtic Highlands and as it existed in those Border Highlands in which the population was predominantly Scoto-Saxon. It seems to be now almost forgotten that neither in nature nor even in name, was the Clan organisation confined to the Celtic Highlands. We have the best possible evidence on this subject—the evidence of the language and of the action of contemporary Parliaments, embracing representative men from all corners of the Kingdom who could not possibly be mistaken on the identity of the social phenomena with which they were called to deal in its different Provinces. Moreover this evidence of instinctive recognition is corroborated and confirmed by the still higher evidence of clear intellectual definitions. Those Parliaments had before them tremendous practical evils, exposing Society very often to great suffering, and to the continual dread and anticipation of it. They were compelled to think about, and to define to themselves and others for the purposes of legislation, the root and source of such great evils. Accordingly they arrived at consistent and clearly intelligible results. They had before them two great sources of power and of authority. One of these was the power of the Proprietor of land in the



exercise of the rights of Ownership. The other of these was the power of a few great Families in the exercise of the power of Chiefship. The powers of Ownership rested upon chartered and legal authority, in close connection with systems of law and of tradition as wide-spreading as the civilisation of Europe both in the ancient and in the modern world. The power of Chiefs rested on unwritten and indefinite usages, on influences essentially local, personal, and individual. These were not formal differences. They were differences in the nature of things. The interest of a Proprietor of land, as such, lay in the improvement of the soil, the increase of its produce, in the peace of the country, in the growing wealth of its population. The interests of a Chief, merely as such, were generally the interests of a political and Military Leader, whose ambitions, passions, and desires, did not by any means tend to be in harmony with the national government or the general interests of the country.

As between these two great sources of influence and of power there could be no doubt in the Sixteenth Century which of them was the instrument to be relied upon in the cause of Law, Order, and Civilisation. This was the question which, under the pressure of great and intolerable disorders in many parts of the Kingdom, came at last to be specially dealt with, first, by the Parliament of 1581, and, next, by the Parliament of 1587.

The first of these does not give a flattering description of the confraternities of men who then were known under the name of Clans. It calls them "Clans of thieves," and says they were "for the most part copartners of wicked men, coupled in fellowship by occasion of their surnames, or near dwelling together, or through keeping society in theft, or reset of theft, not subject to the ordinary Courts of Justice, nor to any Landlord that will make them amenable to the laws, but commonly dwelling upon sundry men's lands against the good-

will of their Landlords, whereby true men injured by them can have no remedy at the hands of their masters."

The Parliament of 1587 dealt with this condition of things much more carefully, and with an amount of detail which is of the highest historical interest. It was held in Edinburgh, and was attended by a full proportion of the classes which generally attended the Great Council of the nation in those days. In particular, there were both among the clerical and the lay members men from parts of the Kingdom who lived in, or in the neighbourhood both of the Celtic and of the Anglo-Saxon Highlands. The Earls of Lennox, of Mar and of Huntly, the Abbots of Melros, Scone, Inchaffray, Paisley, and many others, the representatives for the Burghs of Aberdeen, Stirling, Inverness, Dingwall, Wigton, Selkirk, and Dumfries, must have known what they were talking about when they absolutely identified the Clan system of the Highlands proper, with the Clan system of the Border Hills and Vales. This they did, not only in the general title of the statutes they passed, or in any loose cursory application of the same words to things which were only analogous, but not in principle the same. They conjoined together the Highlands and the Borders in these titles indeed, but also in the far more effective way of defining that feature of Clanship in which its essence lay. This was in the power of Chiefship as distinguished from the power of Ownership. It was the Chiefs as such who recruited, entertained, and harboured "broken men." It was the Chiefs who waged war against each other, and overruled and overrode the legitimate influence of Proprietors over their own Tenants. It was to Proprietors that the Legislature looked for a remedy to this state of things. It was to their legal and authorised powers that it appealed as involving corresponding duties in keeping the peace of the country. They had a right to turn out "broken

men" who lived upon their Estates. They had a right to let their lands on any condition they liked. They were not to allow themselves, if they could help it, to be reduced to the condition of mere rent-chargers on their own Estates—divorced from the powers and rights which they held as Owners of the soil. If, indeed, from living in the "far Hielands," or on the Borders, they were helpless in the matter; if they lived on their Estates, and yet could only get their "mailes and rents, and no other service or obedience," then such landlords were to be exempt from penalty for consequences which they could not prevent. But as soon as possible they were to deliver themselves from such a condition.<sup>1</sup> It was their duty not to let their farms, or other holdings, to men who were not loyal subjects of the Crown.

This language was addressed equally to all Owners of land over all the Highlands, Celtic and non-Celtic. The tongue spoken in particular districts could make no difference in these rights and powers of Ownership as known to the law, nor could it make any difference in the duties they imposed. Therefore, all over the Kingdom, both in the Borders and in the Highlands, the Proprietors of land were exhorted and enjoined to resist to the utmost the unlawful powers of Chiefs over the Tenants and others who lived upon their land, and they were especially enjoined not to let their land on hire to such men as would lend themselves to such leaders.

But in order to make these enactments more definite and practical, two lists or "Rolls" were drawn up, and scheduled in the Act; one of them being a "Roll of the Clans that has Captains, Chiefs, and Chieftains, on whom they depend ofttime against the wills of their Landlords, as well on the Borders as the Highlands, and of some special persons of Branches of the said Clans." The other list was a "Roll of the Landlords and Baillies of lands dwelling in the Borders and the Highlands where broken men have

<sup>1</sup> *Act. Parl.* (Jacob. vi.) vol. iii. p. 462.



dwelt, and presently dwell." At the head of the first of these rolls we find some of the most famed names of families of the Border Counties or the non-Celtic Highlands—such as the Elliotts, the Scots, the Armstrongs, the Johnstones, the Jardines, Maxwells and Carruthers. These are bracketed in the same list with the Macdonalds, the Macleods, the Mackintoshes, the Camerons, and all the best known Chiefs of the Clans in the Western Isles and Highlands, as well as in the central and eastern districts of the Celtic area. It is quite evident that at that time the system of men aggregated into Septs and Clans under a common name, and with at least a flavour and a memory of common blood, was so identical in the two great divisions of the Kingdom that no distinction could be drawn either in its principle, or in its effects. It is evident also that the evil and danger of this system essentially consisted in the military and predatory character which these Septs and Clans tended to assume—in the perpetuation of feuds, and generally in the encouragement of a lawless spirit, and the practices of a lawless life.

Sir Walter Scott, in the short but powerful sketch of the history of the Southern Counties during 300 years, which he has given in the preface to his *Minstrelsy of the Scottish Border*, has entirely accepted this view of the identity of the Clan system in the two divisions of the Kingdom. Throughout the pages of that sketch, he speaks of the great families of the Border as the Chiefs and heads of Clans. He even speaks of the "Tribe;" and his narrative affords signal examples of all the characteristic features of Celtic Clanship. The broken remains of some decimated Sept were in the habit of joining and merging in some other more fortunate and more powerful Clan. Exactly the same results to the nation and to society had arisen in both areas. In the Fifteenth Century the great House of Douglas played, in the southern part of the Kingdom,

towards the Scottish Crown and Monarchy a part strictly analogous to that which, during the previous Century, had been played in the Highlands by the Lords of the Isles and the Earls of Ross. And when that great House was broken up, its place was taken by a crowd of Clans, which kept up against each other, and often against the Crown, the same perpetual feuds, and the same frequent rebellions. The only difference between the Celtic and the non-Celtic Clans and Septs lay in the geographical situation of their respective countries, and in the distinctions of language. Both of these differences tended to keep up the Clan system in the Highlands long after it had practically disappeared in the Lowland counties. The Union of the Crowns under James VI., in 1603, put an end to the isolated position of the southern Clans as Borderers. As Sir Walter Scott pithily puts it, this event "converted the extremity into the centre of his Kingdom."<sup>1</sup> Community of language had been already established for centuries between the southern Clans and their neighbours in the Low Country.

The Reformation took a powerful hold over the population of the Borders; and it is well known that a few years later they furnished the most uncompromising adherents and martyrs of the Presbyterian Covenant. On the other hand, the Celtic Clans continued as isolated and inaccessible as before, and their language and habits were an insuperable barrier to any real community of thought. The Reformation did not, until a much later date, make much progress among the Celtic population. They had no religious sympathy whatever with the powerful motives and incitements which kept up among the Presbyterian people a passionate devotion to constitutional liberty, and to a system of government strictly subordinate to law. All this is intelligible enough. But what is less intelligible is the extent to which it is forgotten that the

<sup>1</sup> *Minstrelsy*, Pref. p. xlviii. (ed. 1802).

ultimate decline of the Clan system in the Highlands and in the Borders was due to the same general causes which operated in both cases the same kind and measure of improvement. The only difference was that the change came in the Highlands more suddenly, and later by more than a hundred years. But the essence of that change was the same in both cases. It was the decline, on the one hand, of usages unwritten and unknown to the law. It was the emergence, on the other hand,—the survival and working—of powers and influences which were imbedded in the Legislation of many centuries, and had been from time immemorial the basis of all civilisation. The Chief, as such, lost a power which was checked by no responsibility, and was only by accident connected with any public duty. The Proprietor, as such, became free to exercise powers which were recognised by law, and were, in the nature of things, inseparably bound up with the progress of the country and the advance of agriculture.

Yet, strange to say, the imaginations of men in the Highlands continued, down to our own time, to think of the Clan as having a legal and substantive existence there, although it had for two centuries ceased to be even thought of in the Border Counties, where it had once been quite as powerful, and quite as universally established. With such vividness was this imagination entertained, that so late as the year 1852 an attempt was made by a man of the name of Macgillivray to claim certain lands from the natural heir, on the ground that this heir did not belong to the "Clan Chattan," whilst he, the claimant, did belong to it. Such a claim showed a wonderful forgetfulness of the methods by which Clans had been maintained. They had been kept up by mere enlistment—by "Bonds of Manrent" entered into with strangers—by the adoption of the children of slaughtered foes,—by the absorption of the broken remnants of other Septs. It would



have been a return to barbarism, indeed, if mythical "Tribal rights" had been suffered to disinherit the nearest blood-relations of the last Proprietor, and to establish in possession the descendant, perhaps, of some "broken man" of a hostile Sept, who had changed his allegiance and his name. That such a claim should have been made is another example, in a separate line of action, of the corrupting effect of sentimental admiration for Celtic Feudalism, of which we have already seen other illustrations. The claim brought up before the Supreme Court in Scotland the whole question whether the Clan organisation had any existence which could be recognised by law. The decision of that Court is one of high legal and historical interest, and bears upon the face of it its justice and its truth. I give it therefore in full, as quoted by Mr. Skene:—

"The lapse of time and the progress of civilisation, with the attendant influences of settled Government, regular authority, and the supremacy of law, have entirely obliterated the peculiar features, and destroyed the essential qualities and character of Scottish Clanship, but whether they are viewed as they once were, or as they now are, a Court of Law is equally precluded from recognising clans as existing institutions or societies with legal status, the membership of which can be inquired into or acknowledged for ascertaining the character of heirs called to succession.

"The inquiry which the pursuer's averments would here demand must be attended with extreme practical difficulties; but the recognition of a Clan as an institution or society known to law, so that membership thereof shall be a quality of heirship and a condition of succession, is open to serious objection in point of principle.

"In an earlier age, when feudal authority and irresponsible power were stronger than the law, and formidable to the Crown, Clans and Chiefs, with military character, feudal subordination and internal

arbitrary dominion, were allowed to sustain a tolerated, but not a legally recognised or sanctioned existence.

“In more recent times Clans are indeed mentioned, or recognised as existing, in several Acts of Parliament. But it is thought that they are not mentioned or recognised as institutions or societies having legal status, legal rights, or legal vocation or functions, but rather as associations of a lawless, arbitrary, turbulent, and dangerous character.

“But nothing now remains either of the feudal power and independent dominion which procured sufferance in one age, or of the lawless and dangerous turbulence which required suppression in another. When all military character, all feudal subordination, all heritable jurisdiction, all independent authority of Chiefs, are extracted from what used to be called a Clan, nothing remains of its essential and peculiar features. Clans are no longer what they were. The purposes for which they once existed, as tolerated but not as sanctioned societies, are not now lawful. To all practical purposes they cannot legally act, and they do not legally exist. The law knows them not. For peaceful pageantry, social enjoyment, and family traditions, mention may still be made of Clans and Chiefs of Clans; but the Highlands of Scotland, no longer oppressed by arbitrary sway, or distracted by feudal contentions, are now inhabited by loyal, orderly, and peaceful subjects of the Crown of Great Britain; and Clans are not now corporations which law sustains, nor societies which law recognises or acknowledges.”

There is only one point of view which is not fully presented in this clear and admirable Judgment. There is probably no human institution, however liable to abuse, or however greatly it may have been actually abused, which has not also some original elements of good. These may survive and revive even in the processes of decay. When the purely

feudal relations of Chieftain and of Clan were not separated from, but, on the contrary, were united with, the peaceful and industrial relations of Proprietor and Tenant, and when the life and pursuits of Chiefs were no longer directed by political ambitions or by inter-tribal hatreds, the combined influences of Chief and of Landlord were obviously capable of being converted into the most powerful agency of civilisation and of progress. Such, accordingly, they proved to be, first among the Lowland, and, at last, also among the Celtic Clans. Of this we shall see some examples in the next Chapter. The passage between these two conditions of Clan-ship is sure to be accompanied by incidents of difficulty and discontent. These are illustrated by a melancholy example. In virtue of the arrangement made by the Statutes of Iona many of the young Highland Chiefs came to be educated in the leading centres of learning, both in Scotland, in England, and on the Continent. Thus two young men of the Clanranald—Macdonalds of Keppoch, one of the oldest families in the Highlands—returned from the Low Country in 1666, full of zeal for the improvement of their estates. Such improvements never fail to offend many whose lives have been spent in pursuits, and in ideas, which belong to the dying past. Such men have neither the intelligence nor the education which enable them to understand reforms. They misjudge the motives and the reasons which induce men of superior knowledge to depart from ignorant but ancestral usages. The two young Macdonalds seem in this way to have fallen victims to their superior culture, and were barbarously murdered by some of their own Clan.<sup>1</sup> But these young men were martyrs in a cause which was soon to triumph. About twenty-two years after their untimely death, their own followers fought with their old enemies, the Mackintoshes, the last Battle of the Clans. This was in

<sup>1</sup> Gregory, p. 415.



1688, shortly before the Revolution which finally established the Reign of Constitutional Law in the government of the United Kingdom. After this there was a slow but steady change; and although a great number of the Clans chose and fought for the Cause which was opposed to Progress, yet they fought in that cause nobly—with a personal loyalty and a chivalrous devotion. The better elements of Clanship were thus emerging even in those who did not choose the better side. The same elements emerged, at least equally, among those other Chiefs and Clans who fought as well, as devotedly, and sometimes with as much self-sacrifice in that other Cause which was identified with the triumph of Settled Law over Arbitrary Power.

## CHAPTER V.

### THE APPEAL FROM CHIEFS TO OWNERS.

THE solemn appeal made by the Parliament of 1578 to the ordinary powers and legal rights of Ownership, as the best and only remedy for the terrible evils which had arisen, both in the Highlands and on the Borders, from a traditional and lawless Feudalism, was an appeal in strict accordance with the whole history and principle of progress in Scotland since the dawn of her Civilisation.

We have seen that from times dating at least 400 years before this Parliament, the right of Owners to select their own Tenants, and to let their own lands on whatever conditions for which they could get acceptance, had been so completely recognised as a matter of course, that the "passing away" of one set of Tenants, and the coming in of another set, was dealt with as a common contingency, and as requiring to be met by an equitable modification of the local burdens imposed for the support of Mills. Celtic Feudalism itself had largely taken advantage of those rights of Ownership by planting men upon estates who could be counted upon as absolutely at the disposal of Chiefs in any enterprise. And now we have to notice another appeal to the same legal power and rights made by a previous Parliament, and for a more permanent purpose. The appeal in the Acts of 1578 had reference to the maintenance of law and order,—to the restraint of feuds and broils, to the cessation of plunder and ravage committed against the peaceful subjects of the Crown who

lived within reach of the Highlands or of the Border Clans. These were indeed the first and indispensable conditions of all internal improvement in the districts tenanted by the Clans, and also in all the districts accessible to them. Beyond this, however, the Acts of 1578 did not point to the advance of agriculture, or indicate any methods by which that great industry might be established among the people. But this had been done before. It had, indeed, been a continuous work going on for centuries. The foundations of it had been laid in the encouragement given to free Covenants; and more than a century and a quarter before this date the Act of 1449 had made all Tenants secure in the enjoyment of their Leases. But in like manner, and as an essential part of the system of free Covenants, the Owners of land were to be secured also in the fulfilment of all conditions on which such Leases had been given. Founding on this great principle, both of law and of equitable custom, another Parliament, that of 1454, had indicated to Proprietors that they could bind their Tenants by covenants of Lease to take their part in the agricultural improvement of the country. The particular kind of improvement which attracted the special notice of that Parliament is not a matter of great importance. Scientific agriculture was then unknown, and the interferences of legislation with agricultural industry were not always more intelligent than its interferences with the industry of the Towns. Generally, indeed, they were founded on the better policy of leaving men free to find out the best modes of promoting their own interests. On this occasion, however, for an immediate purpose of great importance, Parliament did point out one of the best and most fruitful means by which the Owners of land could exert their powers for the improvement of the country. The immediate object in view was the progress of enclosures, both for woods and the better fencing of arable land. So much that is



valuable in principle is involved in this statute, and its very wording is so intimately connected with the working of chartered Ownership and Jurisdiction, that I give it in full :—

“Anent the plantation of woods and hedges, and the sowing of broom, the Lords think it speedful that the King charge all his freeholders, spiritual and temporal, that in the making of their Whitsunday sets (lettings) they statute and ordain that all the tenants plant woods and trees, and make hedges, and sow broom, up to the faculty of their malings (the capacity of their holdings), in places convenient therefor under such pain and unlaw as the Baron or Lord shall modify.”<sup>1</sup>

This is rather a Minute or Memorandum as the basis of a law, than a direct Statute. But the informal legislation of those days includes many such admonitions and directions issued to the lieges, and historically they furnish some of the most valuable indications of the public policy of those times. In this case we cannot fail to observe the peculiar phraseology which is employed as to the power of Landowners in respect to the enforcement of the conditions on which they might choose to let their land. They were to “statute and ordain” in respect to that enforcement. Whence comes this expression, which was the usual phrase adopted to express the enacting authority of Parliament? The answer to this question brings us face to face with one of the most important of all the Institutions of those centuries—namely, the Courts of Heritable Jurisdiction, and the combination of these with the ordinary powers and rights of Landowners over the disposal of their property. We are accustomed to think of the Heritable Jurisdictions conferred by Charter upon the Owners of Baronial estates, and also upon the Magistrates of Royal Burghs, as Institutions indefensible in principle, and wholly barbarous in effect. That they led very often to great abuses and oppressions is certain. It is certain also that they became inconsistent with the universal prevalence of

<sup>1</sup> *Act. Parl.* (Jacob. II.) vol. ii. p. 51.

the authority of a central Government, and of the equal administration of justice by impartial tribunals all over the Kingdom. But it may well be doubted whether, in any of the centuries before the close of our Civil Wars, the Courts of Baronial Jurisdiction could have been dispensed with over a large portion of the country, and especially in the Highlands. This at least was the feeling of those centuries, and they were centuries full of the instincts which alone can build up a Nation.

Perhaps it will surprise many to know that in the few cases in which we can catch a glimpse of the ordinary working of these Institutions the truth of this feeling is very much confirmed. My own attention was first called to this question—one of great historical interest—by observing the stipulations which were universal in Leases down to our own times, by which all agricultural Tenants were bound to attend “the Baron Baillie Courts” of the Lordship or Barony in which their farms lay. Clearly those Tenants were not asked to appear before the Courts as litigants, or as accused persons, nor merely to express submission. They became bound to attend for some practical purpose, and it is quite evident what that purpose was. It was for the purpose of serving as jurymen or assessors to assist in the administration of justice, or as members of a Council for the general regulation of rural and local affairs. Accordingly, in the few cases in which the records of these Baronial Courts have come to light we see that the system of Heritable Jurisdictions, which has acquired such an evil name, was in reality, in its best days, a thoroughly popular institution—one in which the Baron or the Lord exercised his powers and jurisdiction with the general assent of those over whom he held them. It is true, indeed, that the Tenants, and others who attended, could do nothing without consent and co-operation of the Lord; and it is certainly true also that he could do almost all he liked to do without them. But it is

equally evident that ordinarily he acted with them and through them,—so that by means of these Courts not only did a great Baron execute in the main substantial justice, but a great Landowner could also the better introduce agricultural improvements, and enforce new ideas and new practices upon his Tenants by securing general acquiescence in their obligation and in their value.

All this comes out with striking clearness in the life of one great Highland Chieftain, and in the careful records which he has left behind him. We cannot do better than look carefully for a little into the evidence to be found in both.

Not very long after the death of Robert the Bruce, the ancient Barony of Lochow, which he had confirmed by a new Charter in the hands of the son of his old companion in arms, came in the usual course of inheritance into the possession of one Sir Duncan. He had two sons, the elder of whom, Sir Archibald, became the immediate progenitor of the first Earl of Argyll. To his younger son, Colin, Sir Duncan gave that part of his Barony and territory which consisted of the lands of Glenurchy, including the adjacent shores of Lochow at its head or eastern end. These lands have a remarkable geographical position. From that end of Lochow a very short hollow in the hills, leads up along a rough but easy slope to a low Pass, which is the watershed between the western and eastern coasts of Scotland. From the top of this low Pass, the same great gap in the surrounding hills opens into the long and somewhat winding glen or strath which in its upper reaches is called Strath-Fillan, then becomes occupied, first, by the small waters of Loch Dochart, next, by the larger waters of Loch Tay, and from that point constitutes the bed of the river Tay, till that river emerges on the Low Country north of Perth. This long stretch of glen, strath, and valley is the most remarkable transverse break in the mountain masses which constitute the central Highlands. It affords



an easy access to those Highlands from the Eastern and Lowland Counties, and there is reason to believe that along it more than one of the great movements of passage and of invasion have found their way. It must have been by this route that King Robert the Bruce passed westward to attack his enemy John of Lorne, and it was on the direct continuation of it that he fought the battle of Ben Cruachan in 1308. It is to a part of this long line of depression that the name Breadalbane properly belongs, the only name in which we have the survival of the old name "Alban" by which the whole Scottish mainland was known in the early days of the Scoto-Celtic emigration from Ireland.

From the moment when the younger branch of the Campbell family became Lords of Glenurquhay, they seem to have directed their chief attention to the extension of their authority and possession eastward along this great line of access to the Highlands of Perthshire. In the course of a few generations they had acquired the whole of it either in Superiority or in Ownership—had built Castles on Loch Dochart, at Finlarig near the western end of Loch Tay, and lastly at Balloch, near the eastern end of that Lake, and subsequently known as Taymouth. It would be difficult to find a more typical example of a great Highland estate and Barony. With the exception of a few flats along the river-sides,—of a very few gentle slopes capable of cultivation at either end, and here and there about the middle,—almost the whole area consists of very steep and high mountains, with a few lateral passes, all more or less narrow and defensible, opening southwards towards Loch Lomond and Loch Earn, and northwards towards the wilds of Rannoch and Glenco. Yet into this country gathered from time to time various "broken men," and "broken Clans," who came to live under the protection of the Lords of Glenurquhay on the usual terms of Celtic Feudalism, gradually passing into the more civilised

relationship, founded on Charters, of Landlord and Tenant under written Covenants. In this great period of change the single life of Duncan, the seventh Lord of Glenurchy, spans an important epoch in the history of Scotland. Born in 1545—only thirty-two years after Flodden, and early in the reign of Queen Mary—living through the whole of her reign,—through the whole of the reign of James VI., both as King of Scotland and as King of England, and surviving through the first five years of the reign of Charles I., this Baron seems to have been one of the earliest of the great Landowners of the Highlands who exerted himself in the rural improvement of his country. By a fortunate accident his papers, and the papers of some of his predecessors, have been preserved, and a selection of them published by a competent and careful Editor.<sup>1</sup> As Sir Duncan ruled for forty-eight years, from 1583 to 1631, these papers throw a flood of light on the economy of estate management, and of rural conditions generally during the Sixteenth and Seventeenth Centuries.

Here we find a full explanation of the Act of 1454, when it exhorted Landlords to “statute and ordain” that certain things should be done by Tenants as conditions of their Lease. We find that the Baronial Courts were local Councils with very extensive authority over all kinds of matters. They voted their Regulations in the set form of Acts of Parliament—“it is statute and ordained.” Moreover, these words are often (though not always) followed by words analogous to those in Acts of Parliament by which the Sovereign declared that he acted with the advice and consent of the other branches of the Legislature. So in the Baronial “Statutes” it is often narrated that they were enacted “with consent and advice of the whole Commons and Tenants.” This form varies sometimes, for an intelligible reason, with the subject-

<sup>1</sup> *Black Book of Taymouth*, edited by Cosmo Innes.

matter, where special interests were affected. Thus, in one case where the statute affected Mills, it narrates that it had been passed with consent of the "whole Tenants and Millers." Some of the statutes are for the enforcement of old Parliamentary enactments. Some are for the better regulation of morals, as where women are prohibited from going to drink without their husbands in public brew-houses. But the great majority of the regulations concern what may be strictly called estate management—the obligations laid upon Tenants to conform to certain rules necessary for their own welfare, the welfare of their neighbours, the comfort of the Cottars or Subtenants who laboured the ground, and the general improvement of the country. Some important facts come out very clearly in these and other relative documents. In the first place it is evident that all the poorer Tenants held their farms or "rooms" on the Steelbow tenure, under which the Landlord supplied not only the land but the stock and the seed corn.<sup>1</sup> It is needless to point out that quite irrespective of the powers and rights attaching, over the whole of Scotland, to the undivided Ownership recognised and conveyed both by Charter and by the immemorial usages which we have traced, this position of the Owner of the land being also the owner of the stock, and the lender of the capital required for seed, etc., by Tenants, was a position which must have rendered the exercise of his equitable as well as legal powers of admitting and removing Tenants, a matter of universal recognition. Accordingly among the Statutes of the Baronial Courts of Glenurchy, and in other documents of the same series, we find that the outgoing and incoming of Tenants was as much contemplated and provided for as it had been 332 years before in the legislation of William the Lion. Thus in 1621, "it is statute and ordained that every Tenant and Cottar shall leave their Dwelling Houses,

<sup>1</sup> *Black Book of Taymouth*, Pref. p. xxiv.



at their removing therefrom, as sufficient in all respects as they entered thereto—every person failing herein under the penalty of ten pounds ”<sup>1</sup> (Scots). So, again in 1624 there is a careful statute regulating according to a just valuation the sums which might be due by incoming and outgoing Tenants for houses and head-dikes respectively.<sup>2</sup> One example is given of the forms pursued at an actual removal in 1596. The outgoing Tenant was removed by the authority and in the presence of a regular Officer of the Sheriffdom of Perth—the household gear was taken out, and the Cattle, Sheep, Goats, and Horses were led beyond the march of the farm, whilst the incoming Tenant was inducted into his new possession with the like formalities.<sup>3</sup> There are a few indications that occasionally the removal of Tenants was unlawfully resisted ; but these indications are so rare that they are classed with other acts of violence, against which men protected each other in their “ Bonds of Manrent,” just as they engaged to protect each other against the ravages of hostile Clans. Indeed, the common and usual danger against which these peculiar personal and family alliances were directed was not the danger of Tenants resisting lawful removals, but the danger of Tenants suffering unlawful violence from others than their Landlord. In one case among the published documents of this kind in the Book of Taymouth we find that the Lord of Glenurchy engaged in a “ Bond of Manrent,” to defend his friends of the name of Shaw, having lands in Menteith, against all kinds of injury from lawless men, and only as one item among many others, “ to assist them in all actions of removing against their Tenants.”<sup>4</sup>

On the other hand, the common, usual, and indeed permanent condition of things in those centuries, was the inevitable dependence of the Tenants upon that protection from ravages and

<sup>1</sup> *Black Book of Taymouth*, p. 353.

<sup>3</sup> *Ibid.* p. 418.

<sup>2</sup> *Ibid.* p. 365.

<sup>4</sup> *Ibid.* p. 238.

violence which lay in the fear inspired by great Baronial Landlords in the minds of predatory neighbours, and by the power which lay in their hands alone of recompensing their Tenants and Retainers by the grant of new holdings of land where the ravages of such men had not been foreseen and prevented. Of this contingency and of the obligation which it imposed we have a pleasant specimen in a letter from Colin, Lord of Glenurchy, father of Sir Duncan, in 1570, to one of his followers who had suffered from the great Robber Clan of those days—the Clan Gregour. The letter runs thus:—"Gregor M'Ane, I commend me heartily to you. MacCallum Dow has shown me how the Clan Gregour has taken up your geir and your poor Tenants' geir, the which I pray you to take no thought of, for albeit I have no cattle to recompense you instantly, I shall, God willing, make you and yours sure of rooms (farms or crofts) that shall make you more profit than the geir that ye have lost at this time, you being a true faithful servant unto me. And if the poor men that want geir, dwelling under you, be true to you, take them into the place upon my expense, and give to their wives and bairns some of my Victual to sustain them as you think expedient. I pray you have the place well provided with such furnishing as you may get, and spare neither my geir nor yet your own, for, God leaving us our health, we will get geir enough; . . . for albeit the geir be away and the ground wasted, I keeping that old House, and Holding (with) the rigs (ridges) whole, as God willing I shall, you being a faithful servant to me, my bairns and yours shall live honorable in it, God willing, when the plague of God will lie upon them and their posterity out of memory that molest me and you at this present."<sup>1</sup>

Returning to the enactments of the Baronial Courts of Glenurchy in the days of Duncan the

<sup>1</sup> *Black Book of Taymouth*, pp. 429-30.

seventh Lord, we find that the great powers which the conditions of Society, as well as mere law, placed of necessity in the hands of such Barons, were now setting steadily in the direction of civilisation and improvement. It was ordered that every Householder should provide himself with a Kitchen Garden, such as the scanty knowledge of those days could understand. They were "kailyards," to be well fenced from beasts, and to be stocked with Red Kail, and White Kail, and Onions. Every Tenant was to see that his Cottars, or Sub-tenants, were to be similarly furnished. This seems rude and simple enough. Yet, strange to say, there are thousands of Crofters and Cottars in the Highlands even at the present day, who have never provided themselves with even such kail-yards as this—far less the comforts of the newer vegetables, which are so easily grown, and are so great an addition to the comforts of a family. Similar regulations were laid down for an enclosed and protected place for peats for the Cottars. Careful and elaborate rules were laid down for the protection of existing woods, and for the systematic planting of a few trees, Oak, Ash, and Sycamore, on every farm, according to its size, from nurseries which were to be established in the kail-yards. The plants were to be furnished by the Lord at a fixed and very low rate. These seem to have been made conditions of Leases, and the statutes of the Baronial Courts were directed to the execution and enforcement of them by the general concurrence of the "haill Tenants and Commons." Similar regulations as to manure in the formation of dungsteads show a care on this head much in advance of the time and of the country, whilst another rule against ploughed and manured land too near the banks of rivers, is evidently aimed against the pollution of waters, and the injury of Fish.

But the question naturally arises, what kind of agriculture could possibly be practised in such a



country? By far the largest part of it consisted in steep mountain-sides leading up to enormous moors, and very often leading not even to these, but to sharp ridges, which fall down as steeply again into some narrow glen on the other side. Artificial Drainage was unknown. The bottoms of the glens and of the wider straths were often swampy or occupied by bogs. Thus the only area at all capable of cultivation consisted of the knolls and the gentler slopes which lay between the flats of the bottom and the line above which the hills were too steep for the plough. The universal custom all over the Highlands was to draw a "head-dike" somewhere along this line, and to cultivate such ground as could be made available below it. Potatoes were then unknown. Turnips were unknown. There was no green crop. Wheat was unsuited both to soil and climate. There was, and there could be, no rotation. The only rest for the land was bare fallow, and dense crops of weed. The only crops which were raised, therefore, were some varieties of Oat, and Bear—an inferior kind of Barley. From these bread was made, and beer was brewed. The main produce of the country was Cattle, with some Goats, and a few Sheep. All of these pastured during the winter upon what they could pick up from the last stubbles, and from such coarse herbage as endured the season. No care seems to have been bestowed on making or saving hay. This indispensable article is not even named. It seems to have been unknown. The consequence was that the Cattle were of the most wretched description. When spring came, and it was necessary to sow the arable land, the Cattle and the few Sheep were turned out beyond the "head-dike" to graze upon the lower slopes, on which the wild grasses were beginning to appear. There they gradually picked up flesh as the season advanced. But Cattle, even the smallest and nimblest, are comparatively heavy animals, and there were thou-

sands of acres on every mountain-side which were too steep for them to climb, whilst beyond these again there were miles of moor to which they could not go, and of green faces almost precipitous which every summer covered with a luxurious vegetation. What became of these great surfaces of country in those centuries? The answer is, that to an enormous extent they were absolutely lost, except for the use of Deer, respecting the care and preservation of which, as a valuable supply of food, there were careful "Statutes" made by the Baronial Courts. This is a subject on which there is the profoundest ignorance in the popular writings and impressions of the present day. The mountain areas are supposed to have been pastured by the Cattle of the Tenants and Sub-tenants. The fact is, that they were, for the most part, not pastured by domestic animals at all. And the only exception to this is an exception of great interest in the economy and in the rural life of the Highlands, which like many other exceptions is a signal proof and illustration of the general rule.

Every one who has walked much among the Highland mountains must have come with surprise, every here and there, upon curious marks of deserted habitations, in very secluded and distant spots. There are no such retentive memories as the grassy swards of mother Earth. They keep sacred for generations—sometimes even for ages—the marks of human life both in its joys and in its sorrows, in its business and in its amusements. Nowhere are the graves of men so well remembered as in swellings of the turf. Nor does it forget their pastimes. Looking down from the Terrace of Stirling Castle upon a field below which was grazed by cows, I was struck and surprised, many years ago, to see in the faithful grass the almost ghostly markings of a French "Parterre" which was once the Flower Garden of poor Mary Queen of Scots. And so almost anywhere among the hills we may find ourselves among

little rings of mouldered wall—or of turfy ridges, sometimes circular, sometimes oblong, always very small, and generally placed in groups—suggesting rather the huts of a temporary encampment than any permanent buildings. They are always above the steep sides of glens, and they are never on the stony shoulders of peaks, or upon the summits. Sometimes they are among sudden knolls where the ground is dry, and where little tracts of soft green grass are invaded by tufts of heath, and look as if they would soon be covered by it altogether. Sometimes they are in natural hollows through which a “burn” flows, where the Dipper flits and dives, and where the Heron watches by the side of little pools. Sometimes they are on the top of sudden braes rising over a Moor Loch rich in Water Lilies, and lively with surface rings and dimples, which show it to be populous with Trout. But everywhere and always, if we look around, we can see that those who came there, to live or visit for a time, had an eye to the best pasture, the best shelter, and access to a fresh spring or to some running water. These are the summer “Shealings”<sup>1</sup> so famous in Highland history, and the poetry of which makes men as mad now, as it made a primitive population happy, two hundred years ago. That population went to these distant and lonely spots for the one sufficient reason that their Cattle would not go to them unless they were taken there, and unless they were herded by the men and women and children during a few weeks in the middle of summer. Between these spots and the glens in which the people habitually lived, there lay perhaps miles of ascent almost precipitous, or of bogs which could only be crossed by careful paths, or of rocky ground on which the grassy bits were too few and scanty for the grazing of Cattle. It was not then even known that Sheep

<sup>1</sup> This word, like many others, is variously spelt in the old documents—the earliest form being apparently “sheillings”—but the later form is that adopted in the text.



could be left to graze by themselves among the Highland mountains. The breed was a poor one with thin hairy wool, and considered so delicate that they were habitually folded even at night. Indeed, this was an absolute necessity, for the mountains were haunted by Wolves, and among the Statutes of the Baronial Court of Glenurchy there is one expressly enjoining the regular manufacture of weapons for the destruction of this savage animal. Their ravages must have been formidable indeed when at a date so late as 1622 we find that a case came before the Baronial Court respecting three Cows "whilk were slain by the Wolf."<sup>1</sup>

Under such a combination of circumstances the only way of turning to any human use, even the most favoured bits of the upland pastures, was for the whole population of the Villages or Townships to turn out of their homes, with all their stock, at a certain season of the year, and migrate to some spot where pasture could be found sufficiently good, and sufficiently continuous to support for a time all the Cattle and other stock belonging to them. It was always, no doubt, a delightful time. From the smoky habitations deep in the hollows, where often the sun shone for a few hours only out of the twenty-four, it must have been a pleasant and a wholesome change to live almost wholly in the open air, amongst the fragrant heather, and with the splendid after-glow of the short midsummer nights setting off all the hills around in the superbest colouring. It did not require the conscious eye of a landscape painter to enable even a very primitive people to enjoy thoroughly such a change as this in the routine of life. Even the lower animals often exhibit that unconscious exhilaration of spirits which comes from the influences of Nature. Accordingly the "Summer Shealings" are the theme of much natural sentiment, and the description of them given by Mrs. Grant

<sup>1</sup> *Black Book of Taymouth*, p. 374.

of Laggan in her once famous *Letters from the Mountains*, is referred to by gushing Ministers in the House of Commons, as if they represented a condition of things which it is possible or desirable to restore. They might as well go back to the description given by the same Mrs. Grant of life in a very different country and in a very different kind of wilderness. In my own boyhood I recollect having seen that venerable woman. Yet her girlhood had been spent at Albany, in the State of New York, at a time when she heard the talk of men just escaped from the savage and fatal fight of Ticonderoga, and when the path from the waters of the Hudson to the waters of Ontario lay through primeval forests, occupied only by a chain of posts at distant intervals, and dangerous from "the tomahawk of the Indian, and the scalping knife of the savage." Her delightful account of that journey<sup>1</sup> with her father,—the boating by day, the night encampments, the Mohawk villages and King,—is a still more striking picture of wild life than her account of the summer Shealings in the Highlands.

Both of these scenes belong to an age which, although so recent, has for ever passed away, and this not because of the decline of anything, but on account of the advance of everything. In nothing has there been a greater advance than in that branch of knowledge which, more than any other, has lain at the root of all civilisation—the knowledge how best to use and manage those domestic animals which were among the very earliest and most blessed possessions of mankind. The advance in this knowledge, which has reduced the summer Shealings to rings of turf, has been nothing less than one which has brought some nine-tenths of the Highland mountains for the first time under effective contribution to human use. The dense

<sup>1</sup> *Memoirs of an American Lady*, chap. xlv., by J. G. Wilson. Albany, 1876.

forests of the upper Hudson and Mohawk, through which Mrs. Grant travelled when a child, were not more useless to the American Colonies than the vast vacant pastures of the Highlands were useless to Scotland, when nothing but little bits of them were grazed during the few picnic weeks of midsummer. No one who has ever looked with an eye, however careless, at the mountains of Glenurchy and Breadalbane, could fail to see what a mere fraction of the ground could ever be used for Shealings. The steep acclivities of such hills as Ben Cruachan, Ben Doran, and Ben More are altogether inaccessible to Cattle. And even on the lower mountains with moory slopes, which were available for summer huts, we have only to consider how short the time was during which these were occupied, in order to estimate this tremendous waste. On this point we have precise information from the Baronial Courts of Glenurchy. It was an essential part of the system that no Cattle or other stock should be left at home. If any beasts of any kind were to remain behind, they would trespass on the cultivated land, and destroy the crops. Every man therefore in the Township must do as his neighbour did. Although the live stock was always the personal property of each Tenant, the management could not be individual because of the promiscuous grazing. Rigid rules therefore had to be laid down as to the moving to, and the moving from, the Shealings. From these rules we learn that in the central Highlands the migration of the people with all their Cattle to the hills was never to take place earlier than the 8th of June, and the return from them never later than the 15th of July.<sup>1</sup> That is to say, the whole time during which even a few bits of these great mountain surfaces were to be used for grazing, did not cover more than six weeks out of the whole year.

It is clear therefore that during all the rest of all the seasons, the whole of these mountain pas-

<sup>1</sup> *Black Book of Taymouth*, p. 364.



tures, even the choicest bits of them, were left to the Deer and to the Wolf, to the Moor-fowl and to the Fox. Those only who have trod the moors and hills of the Highlands during the later summer and autumnal months, and have observed how rich they are in grasses, in addition to the heather, which in itself is highly nutritious, can fully estimate the wealth and the bounteousness of nature which was then wholly sacrificed to traditional and untutored ignorance. Even if the little bits of moorland, which were fit for Shealings, had been occupied all the year round, instead of for only six weeks, a mere fraction of the whole area of the Highland mountains would have been made available. There are hundreds of thousands of acres on every mountain group so full of sudden steeps, and little precipices of rock, that no breed of Cattle, however small and worthless, would ever attempt to approach them, even if they were herded in the neighbourhood. Yet these places are nevertheless very often full of ledges and crannies, of steep faces, and even little flats, of the richest vegetation—every inch of them a perfect garden of wild grasses and wild flowers ready to be converted by the Ruminants into human food and clothing. All these immense extents of surface were inaccessible from the Shealings.

Nor must we omit another immense item in our account. In estimating the enormous difference between the productiveness of the Highlands as they were in the centuries of which we have been speaking, and in modern times, we must take account not only of the immense extent of area redeemed since the Eighteenth Century to economic use, but we must estimate also the nature and value of the animals which came to be fed upon that area. Here, again, the Taymouth papers give us authentic information. From other sources we know that the old breeds of Sheep used in the Highlands were small, long-legged, and with coats more like hair than wool. So late as 1730 this was well described by Captain

Burt in his well-known letters. But in the Taymouth Book we have an accurate statistical return of the numbers of stones (weight) of wool which these lean creatures produced ; and from this return we gather that it took 27 fleeces to make up one stone weight. Now the poorest Sheep possessed by even the poorest Crofters in the Highlands will produce a stone of wool for every six Sheep, and many of them for every five Sheep. Each, therefore, of the old breed was worth less than one-fifth of one of the poorest of the new breed. It is no exaggeration to say that when in the progress of civilisation it was discovered that the finest breed of Sheep could, without being folded by night, or watched by day, live all the year round upon those mountains, and could seek out every nook of them in search of every patch of verdure, a very large part of the Highlands was as much redeemed from absolute waste as if it had been recovered from the sea.

It would, however, be a great mistake to suppose that those great areas of mountain were not valued, and very highly valued, by the Owners of them. Regulations laid down for the burning of the moors are as strict and careful as for the cultivation of the glens. The Moor-fowl they produced were part of the Owner's commissariat. No part of the whole country ever was, or ever could be, separated from the rest. In the first place, the Shealings, however few and isolated, were an essential part of the life of those times. The saving of all the home pastures during six weeks in the height of summer, was perhaps even more of a gain than the mere browsing of the hills. But, besides all this, the Owners of estates in those days set a high value on the mountains of their country for purposes of the chase. It is a great blunder to suppose that Deer Forests are a modern invention in the Highlands. The high money value of those Forests is new, but nothing else. The truth is that an area

enormously larger than now was formerly occupied by nothing but Deer. Doubtless, Wolves and "broken men" poached and destroyed them much, and lawlessness often led to the waste of this resource just as it led to waste and ravage beyond the hills. But the documents preserved in the Breadalbane Charter Chest prove not only that venison was largely depended upon as an article of food by the Landowners of the Highlands during the centuries which lie more than 200 years behind us, but that they took great care to preserve Deer in special mountain areas set apart for the purpose. Thus we have a Lease of some land in Glenurchy, being part of the same hills which now form the Forest of the Black Mount, granted in 1687, and indicating very ancient customs, of which the terms were that the Tenant was to be Forester—that he was to keep off intruders,—that the Stock of Deer and Roe upon the ground as given to his care was to be estimated by the Chamberlain<sup>1</sup> "and honest men in the country," so that it might be known how they prospered under his care,—that he was not himself to allow, or himself to use, any pasturing of Cattle except upon the outskirts of the Forest, and that he was to supply the Lord's House at Finlarig with not less than sixteen Deer between Midsummer and Hallowmas.<sup>2</sup>

Leases and other transactions of this kind, and of many other kinds in great variety, show that the Lords of Glenurchy were in the habit of dealing with the whole area of their Estate as sole and undivided Owners; that they did so in full accordance not only with the phraseology of Charters, but in accordance with the unbroken traditions of immemorial times, and with the repeatedly expressed acquiescence, approval, and co-operation of all classes and ranks of men living on the land. In

<sup>1</sup> The title by which the chief Factor or Commissioner was designated on large Estates in the Highlands.

<sup>2</sup> *Black Book of Taymouth*, p. 426.



nothing is this more remarkable than in the fact that many of these men were themselves the living proofs of the exercise of such powers. They had applied for leave to come into the country under the protection of these powers, and continued to hold their possessions on no other terms whatever than the terms granted to them when they so entered. I have already hinted at the probability that if we could now fully trace the history of the population on many of the great territorial Estates of the Celtic Chiefs and Landlords, we should find that no small part of them had been recruited almost as soldiers are recruited, or adopted in groups and families of "broken" Septs, who came to seek protection, and were selected and planted on the land in substitution for disloyal or predatory Septs who were driven out. This suspicion is amply confirmed by the remarkable collection of Bonds of Manrent which are published in the Book of Taymouth. For here we have every variety of circumstance which can show the absolute powers of disposal over the land, which were exercised by the chartered Owners, and which it was absolutely necessary to exercise, for the peaceable settlement and improvement of the country. Moreover, we have in these Bonds of Manrent a very clear explanation of the language which has suggested to many writers a hazy notion that the Celtic Chiefs were chosen or elected by their people. For in these Bonds we see that "broken men," coming to settle in the Lord of Glenurchy's country, were said to "elect him to be their Chief," exactly in the same sense in which a recruit may be said to elect the commanding officer of the Regiment in which he chooses to enlist. Yet the Colonel of the 91st Highlanders would be very much astonished if he were said to be elected by his men.

It is curious, indeed, to observe how complete is the evidence in these Documents of the ancient, wide-spread, and perfectly natural customs by which

Clans in the Highlands had come to be built up during many centuries on the ruins of the prehistoric Tribal system. Except that the fragments which from time to time aggregated round powerful Chiefs were generally all of the Celtic race, there was not necessarily any blood relationship, and sometimes men from even the most hostile Septs came in to join. Thus in 1552 several families, formerly belonging to the Clan Gregor, renounce Macgregor, "their auld Chief," and in their Bond of Manrent record that they have elected and chosen the Lord of Glenurchy and his Heirs as "their chiefs and masters."<sup>1</sup> This is a transaction repeated over and over again, and seems to have been then quite common. Nor is it less interesting to observe the use made of such men when they were admitted and accepted as Tenants on the Glenurchy Estate. In the following year, 1553, we have a Lease granted of some lands in Rannoch, taken from the Clan Gregor, to a gentleman of the name of MacCouliglas. In this Lease we see the inseparable connection which existed then between the political and the agricultural interests of the country—between the legal exercise of Chartered rights, and the suppression of the rival powers of Celtic Feudalism. In this Lease the Tenant is bound to take in no Subtenants, except such as should be subordinate to himself—to support the Lord of Glenurchy in all his lawful quarrels except against the Crown or against his Chief, the Earl of Argyll—to labour and manure the land and to make his principal residence upon it—also to guard the Forests and the Woods—all for the purposes and objects which are explained very clearly in these words:—"Always and until he may bring the same to quietness for the common weal of the country, and shall not suffer any of the Clan Gregor to have entry or intromission of the foresaid lands."<sup>2</sup> Nor did the Lords of Glenurchy limit their action for these purposes within their own

<sup>1</sup> *Black Book of T'aymouth*, pp. 194-5.

<sup>2</sup> *Ibid.* pp. 206-7.

Estates. By Bonds and Agreements between themselves and smaller Owners of land who were less able to defend their own interests, this younger branch of the Clan Campbell exerted their influence all around them to the same ends. Thus in 1590 they bound themselves to the Robertsons of Strowan to help them to evict and remove Tenants who belonged to the hated Clan Gregor, and to maintain in possession the loyal men whom the Robertsons might plant in their room.<sup>1</sup> Thus, again, in the case of a Widow Lady in possession of an Estate in which probably there was some danger of her strength being insufficient—she comes under an obligation not to admit as her Tenants or Subtenants men who were not first submitted for approval to the Lord of Glenurchy.<sup>2</sup>

The criminal jurisdiction of the Barony seems to have been exercised with care, and with an ample apparatus of form and of publicity. The Assessors or Jurors seem to have been generally fifteen in number. Fines were imposed for offences against the Statutes of the Barony. Sheep-stealing, as in our own code up to a very recent date, was punishable with death, and one case is given with the evidence in full, in which this penalty was inflicted—the sentence of the Court being pronounced by an officer called a Chancellor. But the great criminals of those days could not be successfully pursued by the ordinary law, whether in Royal or in Baronial Courts. The most notable exercise of criminal jurisdiction which is recorded in the Book of Taymouth is that by which the Lord of Glenurchy, in 1552, assisted by two of his vassals, Campbell of Glenlyon and Menzies of Rannoch, caught and beheaded one Duncan MacGregor and his two sons, who for more than forty years had been the terror and scourge of the central Highlands.<sup>3</sup>

On the whole, these Journals of a Baronial Court

<sup>1</sup> *Book of Taymouth*, pp. 246-7.

<sup>2</sup> *Ibid.* p. 186.

<sup>3</sup> *Ibid.* Pref. p. xiii.



give a very favourable impression of the way in which they were ordinarily conducted, and of the indispensable function they must have discharged throughout the country in familiarising the people with the highest sanctions, and with the regular operation of authority and of Law. Considered merely as a means of enforcing the few and simple rules and usages which a very rude condition of agriculture rendered necessary, and some of which were requisite for the management of a great territorial Estate, they must have played a valuable and important part. In this capacity, they must have been essential to the ready and easy administration of those powers of Ownership to which Parliament had always wisely appealed against the lawless ties by which men then banded themselves against Society. It is evident that in these Courts, with their regular and stipulated attendance of Tenants and Feuars of all classes, the authority of Baronial Proprietors was conducted upon principles and in the exercise of powers which were universally accepted as just and rightful. They were in truth traditional powers, as well as chartered powers, and beyond them the memory of man did not run. This aspect of the Heritable Jurisdictions has been too much overlooked. A few great cases of abuse arising out of the inevitable corruption of Celtic Feudalism when it could (as it often did) possess itself also of such an instrument of power, have tended to raise an unjust amount of prejudice against the old Heritable Jurisdictions. In their own time they were indispensable. In fact they were highly popular Institutions, both for the local administration of Justice, and for the local administration of rural affairs.

It must be remembered that it was not in what is now called ordinary crime, still less was it in even a thought connected with agrarian violence, that any danger to civilisation then lay. The real danger—the constant and pressing evil—from which Society then suffered was one which could rarely be dealt

with by any Court, because the criminals could not be brought before them until after they had been subdued by arms. Against those criminals Parliament appealed to great Landowners to strike at the root of the evil by not allowing "broken men" to live upon their Estates. It is not until we read the contemporary documents of that time that we can bring home to ourselves the wretched condition of every district of Scotland which was sufficiently near the Highlands to be within striking distance of predatory Clans. A most false and perverted sentiment has come to make men treat as a joke, or even to sing of as a glory, the doings of men whose conduct was characterised by a treachery and brutality which may now seem almost incredible. It is not until we have gone into some detail, and looked matters in the face as they really were, that we can at all understand the absolute necessity which was then attached to the complete power of removal, and of replantation, which the Landowners always had, and which they were specially exhorted to use in the interests of industry and of peace. This and this alone explains the constant stipulations recurring in the Bonds of Manrent between the Lords of Glenurchy and others, whereby it is anxiously provided how lands are to be cleared of predatory Clans, and repeopled with loyal and peaceful men. Some of these Bonds seem very savage in their terms, but they were more than justified by the incomparable ferocity of those against whom they were directed. I will take a case from the *Book of Taymouth* that may in some degree help us to realise what the condition of things was against which civilisation had to fight.

In 1589 the great event which occupied attention in Scotland was the approaching marriage of the Sovereign, James VI., to the Princess Anne of Denmark. The Bride was to come to Scotland, and immense preparations were made to receive her. It will be remembered that angry winds detained the Princess—that they ultimately dispersed the fleet

conveying her—that the King was obliged to postpone his marriage till he himself could go to Denmark after some months' delay—that the wedding took place accordingly in Denmark—and that James and his Bride did not return to Scotland until May 1590. But in the autumn of 1589 all this was unforeseen. It was known that the Princess was on the point of setting sail, and with a favourable breeze her Convoy might have been seen any day entering the Firth of Forth and dropping anchor in the harbour of Leith. The Nobles and the people of Scotland seem to have been desirous and ambitious to give a great reception to the Foreign Princess who was to be their Queen. Each and all were eager to contribute something of their best for the festivities of the occasion. Amongst others, Lord Drummond, whose territories included the famous Forest of Glenartney, desired to supply his Sovereign and his Queen with the best venison from a pasturage of such great renown. Not, indeed, for more than 200 years was that Forest to be made for ever famous beyond the bounds of Scotland by that immortal opening:—

“The Stag at eve had drunk his fill  
Where danced the moon on Monan's rill,  
And deep his midnight lair had made  
In lone Glenartney's hazel shade.”<sup>1</sup>

But although its reputation was then local, it seems to have been well established. There was, however, one awkward circumstance about it, which must have been a serious impediment to sport. It was dangerously near the territory and, indeed, the head-quarters of the terrible Clan Gregor. They were specially seated on the hills and glens which fall into the northern and western shores of the beautiful Loch Katrine, whence easy passes led to the neighbourhood of Glenartney. The sportsman in that Forest might very suddenly find himself con-

<sup>1</sup> *The Lady of the Lake*, canto i.



verted from the Hunter into the Hunted, and be overtaken by the fate he had intended for the Deer. Lord Drummond knew the danger, and he determined, therefore, to take every precaution. Through more than one friendly channel, therefore, he seems to have secured a safe-conduct for those whom he intended to send to slay the Deer. He then chose a gentleman of his own Clan and name, Drummond of Drummonderocht, who was to repair to Glenartney and procure the venison. Accordingly this unfortunate man proceeded on his mission, and began his hunt. He was doubtless watched from his entrance, and when far from all succour or alarm, he was surrounded by the Macgregors, and barbarously butchered. The method of the murder is quaintly expressed by the document which relates it in the *Book of Taymouth*, which tells us that the Clan Gregor's dealing with poor Drummond was that they "cuttit and aff-took his Heed." According to another barbarous usage of the Clans, the bloody head of the victim was exhibited to as many of the Clan as could be collected in order that by their own code of honour the whole of them should be implicated in the deed, and banded equally in its defence. Ghastly as this story is, it is not so ghastly as its sequel which is told by Sir Walter Scott.<sup>1</sup> The murderers proceeded with the head to the House of Stewart of Ardvoirlich, whose wife was a sister of the victim. Not knowing their horrid burden, the poor lady offered them hospitality, and when she was engaged in her kitchen preparing their food, they found means of placing her brother's bloody head upon the table, so that it might confront her on her return. The dreadful sight drove her shrieking into the woods, and ended in depriving her of her reason. But before she died she bore a child, in whom the taint of her insanity seems to have come out fifty-four years later, when he committed a treacherous and cruel murder in the camp of the Marquis of Mon-

<sup>1</sup> *Tales of a Grandfather*, chap. xlii.

trose. Such are among the shocking incidents which were not unfrequent in the history of the Clans. It was in consequence of this outrage by the Macgregors and of others of the same kind deemed specially barbarous even in those days, that we find war to the knife proclaimed against the Clan Gregor, and in one case we have a Lease of lands given by the Lord of Glenurquhay, in which it is the main condition of the Tenancy that the holder of it should be in deadly feud with the Macgregors, and should engage to slay and capture them on all possible occasions, whether by open or by secret means.

We see then how the chartered rights of Ownership over land, involving the free and complete disposal of it in all its areas and in all its surfaces, constituted the one great power which alone could mitigate and ultimately abolish the desperate evils which had been developed under the lawless powers and tendencies of Celtic Chiefs. It afforded the only means of introducing with authority the dawning light of agricultural improvement. It afforded the only means of substituting universally the idea of fixed and stipulated rents, for uncertain and arbitrary exactions. It afforded above all the only means of securing that the country should be inhabited by peaceful and loyal men.

Turning now from the Central to the Western Highlands we find the same processes in active operation, and always with the same result. The transfer of territorial Estates from Chiefs who were disloyal, to others who were loyal to the Crown and the Constitution, was uniformly followed by corresponding migrations of the subordinate population. These were not clearances of the true old Celtic type such as that which doomed the whole population of the Island of Eigg to suffocation in a cave, or that which swept off the people of the Upper Dee under the exterminating vengeance of the Chiefs of Huntly and of Grant. In the regular transfers of

Ownership effected by Charters from the Crown, after the conquest of rebellious Clans, a great part of the true old "nativi," or Celtic occupiers, had never any difficulty in transferring their allegiance to a new Chief or Landowner. Smaller Septs who had settled under the protection of some great Chief were equally ready to accept the same protection from his successor, and so it resulted that those who were actually removed were only the military and predatory elements of the Clan. Still, this element was large enough, and above all, its possessions in lands and "rooms" were always large enough to give scope for extensive re-plantation of the country. All this indeed had been going on for centuries, but generally until the times of which we are now speaking, there was little change for the better in these re-plantations. One Clan superseded another by massacre or displacement. But the new-comers were as purely military and as purely predatory as their predecessors had been, and no new element of value either in blood or in habits and ideas was rooted in the country. Now, however, after the Union of the Crowns, and the gradual but steady establishment of more civilised Lords and Barons in the Highlands, these re-plantations of the country, often gradual but continuous in their operation, worked an important change. Not only was new blood frequently introduced, but also "milder manners, purer laws;" whilst the whole mind and attention both of Owners and of Occupiers of the soil began to be set on living by peaceful industry instead of by predatory violence.

We have one striking illustration of the great and beneficent changes which were thus brought about, in the history of the Highland District of Kintyre in the county of Argyll. There is no more remarkable feature in the physical geography of Scotland than the long narrow Peninsula of Kintyre which stretches so far out into the Western Sea that at its termination in that direction it approaches within

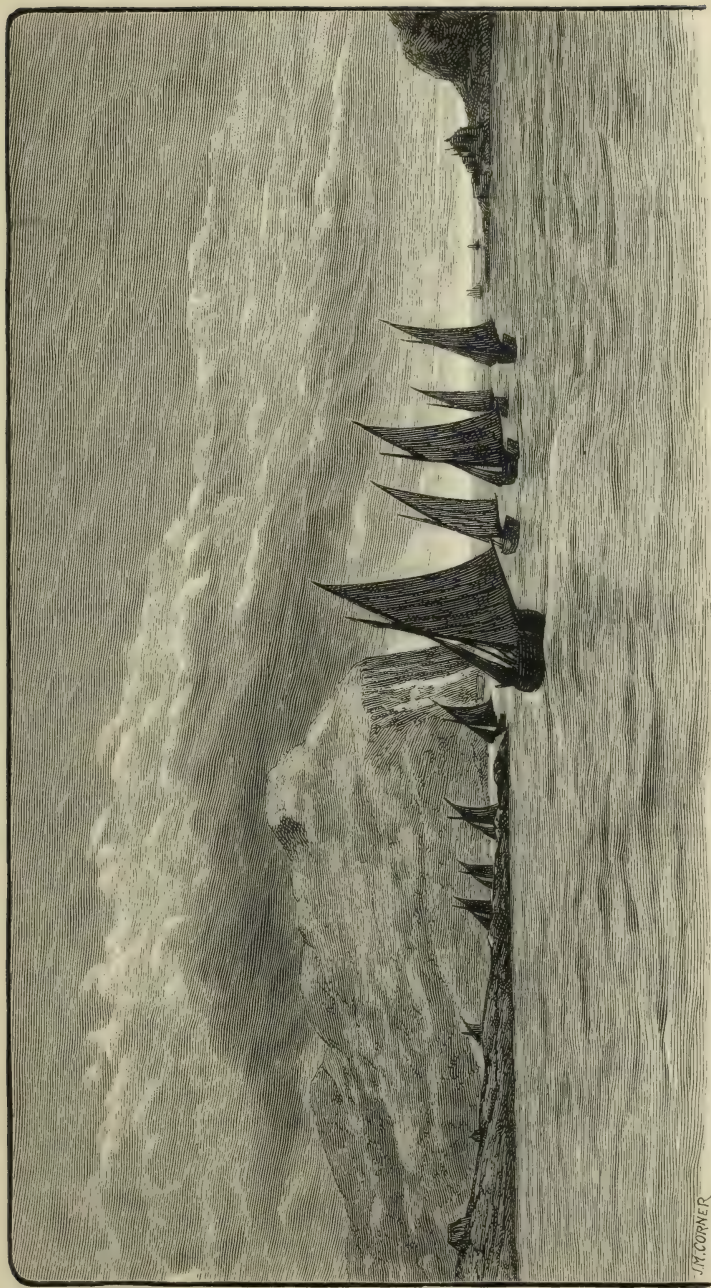


14 miles of the Irish Coast. Round the stormy Headland thus presented to the western winds the whole force of the Oceanic tidal wave from the North rushes in boiling eddies, rising constantly into foaming and dangerous seas. The brave navigators of the North must have rounded it constantly in their way from the Northern to the Southern Isles. But they had a method of avoiding it with at least their lighter vessels, for across the narrow Isthmus which separates Kintyre from Knapdale on the North, they were accustomed to drag their galleys from Loch Tarbet to launch them in Loch Fyne. They thus anticipated an economy of time, of distance, and of danger which our modern coasting trade does not now enjoy, but which will certainly be accomplished some day whenever the eyes of enterprise and of common sense are opened to the obvious utility and value of the short canal which alone is needed at that point to unite the Eastern and Western waters, and to escape some 60 miles of stormy and dangerous navigation.

A great area of land so conspicuous to all comers whether from the South or from the North,—which fronted the navigators northwards from Galloway and from Man, and flanked on the East for many miles the course of galleys southwards from Mull, Skye, and the Scandinavian Seas,—must have from the earliest times attracted the notice of all the hardy Tribes which were peopling those lands with settlers. Nor would this attraction be diminished when they landed on it. Hilly, but hardly mountainous,—its green sea margins,—the slopes above its low cliffs which have been long abandoned by the waves,—and here and there wide openings of comparatively level land,—all afforded precisely the sort of country most easily converted to purposes of pasture and of the rude cereal cultivation which was then practised. Moreover, there was another great feature about Kintyre which has always determined the early settlements of maritime populations.

Near the South-eastern termination of Kintyre its shores retreat suddenly into a long and deep bay, or loch, somewhat sinuous in its course, and with its entrance marked by a high and precipitous island, which effectually protects one of the finest harbours on the British coasts.

Here, accordingly, we find that the Scoto-Irish missionaries had established one of their earliest churches, and Kiaran, one of Columba's followers, had given his name to the harbour and the loch. Here, in later times, the Kings of Scotland had erected a castle, and in their naval expeditions to and from the Isles, they had repeatedly made it a point of gathering or rest. In all the contests for and about the Lordship of the Isles, Kintyre was treated practically as one of the Islands from its almost exclusively maritime position. The Lord of Islay and of Kintyre had befriended Bruce, had harboured him in Kintyre, and the place in which he entertained him is as peculiar and beautiful as many more celebrated sites. All round the Western coast of Scotland there are many remains of the Old Red Sandstone rocks, which geologically are of much more recent date than the grey and slaty schists which form the great mass of the Highland mountains. Along the shores of Kintyre these remains are chiefly confined to the outlines of the existing shore, and to an older line of beach, from which the sea has now retired. At many places they present the character of pudding-stones, or of a conglomerate of pebbles cemented in a red paste of sand. Near the south end of Kintyre these rocks are at some points conspicuous. At one spot they present a remarkable position of defence. In a recess of the coast, containing some of the richest land in Kintyre, in the middle of a beautiful curved bay of sand and pebbles, backed by link-land, meadow, and dunes, some strata of this conglomerate have been tilted up, and now form a small rocky promontory with sharp edges, turned



LOCH KILKIARAN. CAMPBELLTOWN HARBOUR.





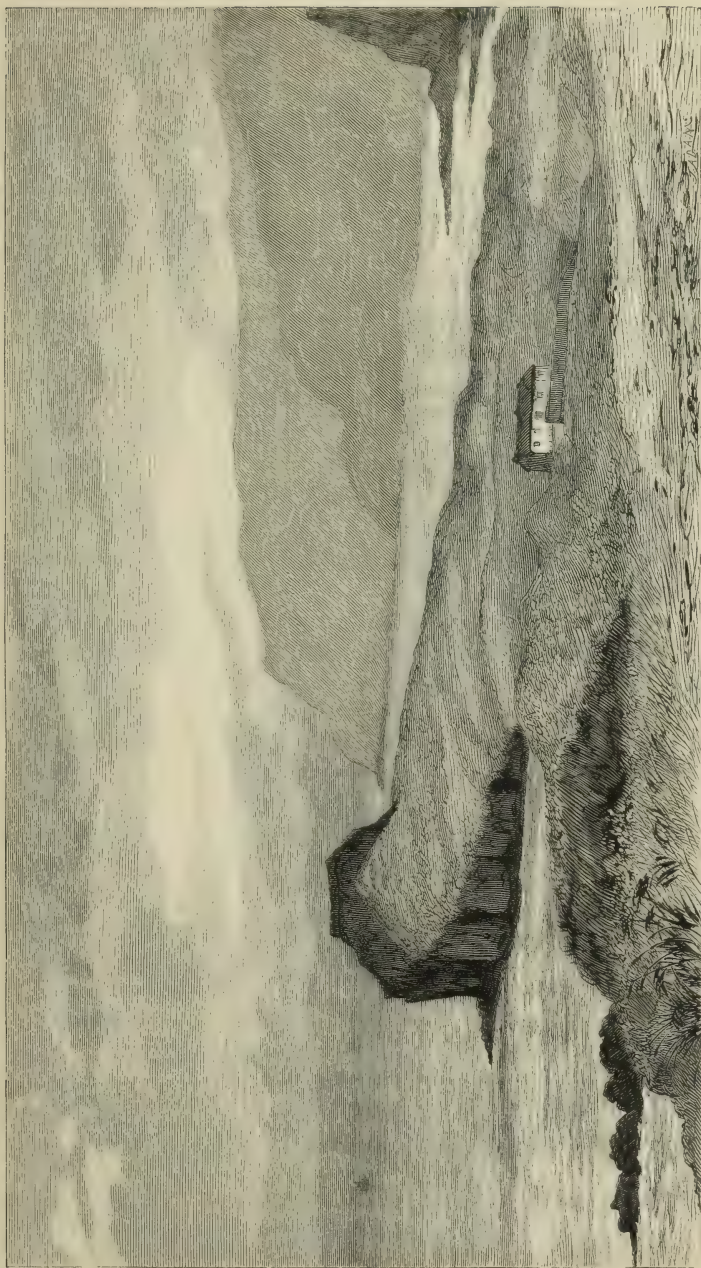
steeply to the sky. On one side they fall in a perpendicular precipice eastwards into the sea; on the other side they slope abruptly into a shallow bay, whilst farther round towards the beach the place is protected by the sea-pool of a considerable stream. By one narrow neck alone is it accessible at all from the land. On this curious "Dun" or isolated rocky headland the Lords of the Isles, and all the Clans and Tribes who ever settled in Kintyre, had erected one of the principal castles of defence. "Dunaverty" commands a magnificent view. From it the coast of Ireland seems close at hand, with the island of Rathlin, Bruce's hiding-place in 1307, seen to the extreme right. Southward and eastward it swept all the sea approaches from the Isle of Man and from the Clyde. In this stronghold, when the Clan Donnell had entered on their long career of hostility to the Crown of Scotland, they had often defied the attacks of their enemies. In the final contest, however, with the Campbells and other Clans who were loyal to the Scottish Monarchy, they were defeated early in the 17th century, and Kintyre passed into the hands of the Earl of Argyll, the leader of the Confederacy which acted for the Crown. The Macdonalds of Islay and Kintyre, however, had not in vain meddled so long in the bloody rebellions and feuds of the Irish Celts. They had established themselves there in territorial possessions, and in the succeeding reign of Charles I. they blossomed into the Earls of Antrim, and did their best once more to subdue Scotland under an Irish and Catholic invasion.

When the Campbells entered upon possession of Kintyre they found the country to a large extent devastated by wars. Out of 353 merk-lands in the whole Peninsula no less than 113 were lying waste.<sup>1</sup> As in other similar cases the native people and the minor Clans who were willing to accept a new Chief were unmolested, and not a few of

<sup>1</sup> Gregory's *History*, p. 308.

them remain in possession of their lands to the present day. But the migration of the leaders to Ireland, and the devastation which continual wars had caused, left large areas to be filled up on the principles which had been so wisely inculcated upon Owners by the Parliament of 1587. It is doubtful whether this process of the plantation of peaceful and loyal men was ever pursued in any part of Scotland under such peculiar circumstances or with so happy a result. It so fell out that not many years after Kintyre had been placed in the possession of the Argyll family, the great contests of our civil wars began. In that contest the Marquis of Argyll took the side which was identified with the Reformed Church in Scotland, and with the determined opposition of the Presbyterian people to the arbitrary measures of Charles I. So early as about the year 1640 he either invited or accepted the offer of a number of Presbyterian families from the counties of Ayr and Renfrew who were disgusted by the persistent measures of the Government to impose Episcopacy upon the Church. These families the Marquis of Argyll settled upon his estate in Kintyre. A second plantation of Lowlanders took place between 1649 and 1660. This was only one item in the whole course of his policy and conduct in support of the popular cause which brought him to the scaffold in 1661. His son, however, the ninth Earl, inherited his sympathies, and pursued the same course, at the same ultimate sacrifice of his life. After the Restoration, as is well known, all the power of Charles II. and his agents was employed in hunting down the opponents of his policy, religious and political, who were especially numerous, and especially devoted in the Western counties south of the Firth of Clyde. As Bruce used to watch, sometimes from Kintyre or from Arran, the beacon-fires which were lighted for him on the opposite coast of his native Carrick, so did the Earl of Argyll or his agents watch the





DUNAVERTY, AND MULL OF KINTYRE. STRONGHOLD OF CLAN DONNEL. RED CONGLOMERATE ROCK.



swellings of persecution which raged against the Covenanters of Renfrewshire, of Ayrshire, and of Wigtown. On a fine summer evening the low, pink hills of these coasts seem near to men who look for them from the headlands of Kintyre, whilst the noble precipices of Ailsa Craig are, as it were, a half-way milestone between the coasts. With a southerly or western wind a few hours' sail was sufficient for the passage. What more natural than that the Covenanters should look occasionally across the water, and should seek for shelter in a portion of the Highlands where so many of their kindred were thriving well, and which was under the rule of a Chief who exercised his power in favour of the Constitution and of the Protestant religion? And so it was that a third migration came into Kintyre. The persecuted Lowlanders crossed in not inconsiderable numbers, and were again planted in various vacant lands all over the estate.

It will mark the continuity of Scottish history, and the sense in which our days have been hitherto "bound each to each by natural piety," if I relate here an incident which occurred to myself in connection with this plantation of Lowlanders in Kintyre.

The deep depression in the line of hills constituting the backbone of Kintyre, which gives entrance to the sea along the shores of Loch Kilkiaran (now called Campbelltown Loch), is a depression which stretches right across the Peninsula from sea to sea. It amounts, indeed, to a complete gap in the hills, and it widens rapidly towards the western shore, where it terminates in a long sandy bay, called Machrihanish, into which the surf of the Atlantic rolls with such tremendous force that the roar of its breakers can be often heard, in favourable conditions of the atmosphere, so far off as the coast of Ayrshire. This great depression in the central ridge is a feature of much interest both in the geological structure and in the economic history of the district. Its geological interest lies in its im-



mense antiquity. It dates from before the formation of the Coal Measures. Then as now, this hollow was a deep depression in some surrounding country, and formed a "basin" in which the usual succession of deposits was made which constitute a coal-field. It is entirely separated from the other coal-fields of Scotland, and is the only one existing in any portion of the Highlands.<sup>1</sup> Ever since that age of unmeasurable antiquity it has continued to be subject to the same conditions of alternative depression under the sea, and of slight elevation above it. A thick bed of leaves, derived from the tangled growths of willow and of hazel, testify to a time, very recent, when it was occupied by brushwood. Over that bed there is laid a deposit of marine gravel and of clay, showing that it had been again lowered under the ocean, and the south end of Kintyre had been made an island by a broad belt of tidal waters washing through Loch Kilkiaran between the eastern and western shores. Another elevation had lifted this area again—also during very recent times—and it became covered with a dense forest of oak, whose immense roots and gnarled trunks testify to the length and greatness of their ancient growth. Whether by fire or by inundation, or by other means, this forest fell into decay, and stagnant waters soon accumulated, round and over its fallen trunks, the matted mosses and other vegetation which by decay and pressure became converted into peat. Hence the whole of this wide depression became one enormous peat-moss, stretching from the foot of the hills on one side to the foot of the hills upon the other. Indications have been found that Prehistoric Man occupied the country before these forests grew; whilst more recent remains prove that races of much higher civilisation had carried their arms around the great

<sup>1</sup> Secondary Coals exist in Sutherland, and some small seams of Tertiary age in the Island of Mull. But the true Coals of the Carboniferous age exist nowhere in any portion of the Highland area.

moss, and had occasionally hid them in recesses of the peat. Very lately a ploughman was startled by the clash and clangour of sounding metal, and by shining fragments scattering around his feet. His ploughshare had broken up a bundle of those beautiful leaf-shaped swords of bronze, with which the Britons and the Picts had encountered the legions of Cæsar and of Hadrian. The silent continuity of causation had in this, as in many other cases, been perfectly compatible with a very sudden catastrophe. Buried, perhaps, originally many feet beneath the surface of the moss, these swords had escaped the cutting of drains, and for probably 2000 years had lain where they were found. With infinitesimal slowness after it had been reclaimed, the peat had been shrinking and settling from increasing loss of moisture, until at last the moment came when the ordinary depth of ploughing just enabled the coulter to reach the long-hidden armour of some doughty Pict, and then his graceful yet formidable swords were dashed along a very different surface from that in which he had hidden them.

Since the beginning of historic times it has been the work of Husbandry to cultivate along the margins of this great sheet of bog, and here and there to make inroads upon it, and to extend the area of pasture or of corn. Under the manly system of Free Covenants between Owners and Cultivators this work has gone bravely on, and some of the finest farms in Kintyre have been won and furnished upon the old area of bog. On one of my first visits to the Estate I was told of a small farm situated in the middle of this moss, upon one of the little hills which rise out of it, and afford a vantage-ground of dry land. The Tenant was said to be the lineal descendant of one of the earliest refugees from the Lowlands, whose family had remained ever since upon the Estate, although they had changed repeatedly from one possession to another. The historical interest attaching to such

a case, as well as the account given to me of the character of the family, led me at once to visit it. I found it a typical example of the middle stage of progress between the genuine old Highland "stead-ing," and the finished and elaborate accommodation which farmers have been asking and have been getting during the last half-century. One long line of low thatched houses built across the slope of the Hill without any attempt to keep a level, or to have any dressing of the ground, recalled the oldest arrangement of Highland hovels. As in them, the shelters for cattle were part of the same range, and in close proximity to the kitchen. As in them, too, this apartment was without a chimney, the fire being made in the centre of the floor, round which the family congregated in the evenings, the smoke curling out at an aperture in the raftered roof, whilst the heat and light were distributed in a warm and comfortable glow among those who sat around. On the other hand, the best apartment was a neat parlour with a regular fireplace, and a couple of beds somewhat recessed in the wall. Moreover, instead of mere turf and loose stones according to the old Highland fashion, the walls were rough stones put together with lime, and though by no means rigidly perpendicular, yet fairly solid. The table in the parlour was covered with such Books as Sir William Hamilton's Lectures, and the best treatises on Philosophy and Theology. These were the prizes won by some of the sons at the University of Glasgow. The father of the family, whose name was Huie, was accustomed to sit on a rough but picturesque chair of oak, rudely carved, with the date of 1626 cut in conspicuous figures on corners of the back. This was a relic of their migration. It had been brought with them from Ayrshire when their ancestors had sought refuge from the persecutions of the Restoration.

Of its hereditary owner I cannot speak with-



out memories of affectionate respect. He was as much a bit of continuous history as the chair which was his domestic throne. Not less visibly than on it, the date of 1626 was carved in legible letters on his brow. As a Celt myself I like to think that the ease and natural dignity of his manners were not wholly underived from the Highland country to which his ancestors had removed. But the type of his religion came, undoubtedly, from the Lowlands. It was the religion of the Covenant very slightly modified. It did not show itself ostentatiously, but in little things. Forms which have become hardly more than forms to us, were vivid realities to him. "Grace before meat" was one of these. I have heard it sung in voices of exquisite harmony by the Glee Club in London. I have heard it monotonously recited in Latin in College Halls. I have heard it droned by chaplains at public feasts; and who has not seen the last stages of its decay in the scarcely instantaneous pause of tongues at an ordinary table? But never but once have I heard a real "grace before meat." After a ride of some eleven miles, with as much before him on his return, I had occasion once to urge Mr. Huie, then above eighty years of age, to take some food. He would accept nothing but tea and bread. But before taking it he said he was sure I would excuse a habit which he knew had become unusual. And then, bowing his grey head, he poured forth a prayer, which was a prayer indeed, full of the old man's belief in the presence and in the reality of the Providence which dispensed his daily bread. He was exactly the sort of man who would have led the singing of a congregation in the hills when the ruffians of Charles II. and of Lauderdale were already galloping upon them.

Such is the sturdy blood which was brought into this district of the Highlands by the right of letting land freely to free men, in the exercise of the ordinary powers of Ownership. It has answered

admirably. The Highlanders were not supplanted. Both races were, as elsewhere in the best parts of Scotland, blended and interfused. The process has gone on for more than 200 years. Celtic Tenants are still among the best—not by special favour, but under the stimulus of a healthy rivalry, and by survival of the fittest. There is no race in the world more intelligent or more industrious than the Celts when they are brought under such conditions. Campbells and Stewarts, Mackays and Macalpines, are found side by side with Hunters, and Wallaces, and Montgomeries, and no district in any part of Scotland has made such rapid advances in agricultural improvement.

From this remarkable example of the powers of Ownership exerted in the cause of liberty and of civilisation, it is most instructive to turn to one of the last exhibitions of Celtic Feudalism yoked to the cause of despotism and oppression. The contrast is all the more remarkable since the two transactions may be said to have been contemporary, and to have stood in close relation to the same political conditions. Probably no legitimate Government of modern times was ever so utterly bad as the Government of Scotland under Charles II., conducted by Middleton and Lauderdale, and animated by Archbishop Sharp. The passions of a secular despotism are often savage enough, but they are generally less relentless when they stand alone than when they are inspired by the religious passions of ecclesiastics. Both were combined under Charles II. A vindictive voluptuary hounded on by a fanatical priesthood, was indeed a terrible alliance. They determined to try to bend to their purpose that very power of Ownership to which the Parliament of Scotland had appealed with a nobler aim. They determined to call upon the Barons and the Proprietors of the Western Counties to put down the Presbyterian Covenanters. For this purpose a Bond was presented to them all, by which they engaged to turn out of their farms

and from off their lands, all Tenants who should attend the hated Conventicles. But the powers of Ownership had already brought about in those counties that sympathy of feeling and identity of interests which are deeper seated than the ties of a traditional brotherhood in blood and arms. The Lowlanders, as we have seen, had also been related to each other, not less than the Highlanders as Chiefs and Clans. But only enough of this old relationship remained to give warmth and zeal to the growing and deepening relationships of a peaceful and settled industry. The Barons and the Gentlemen of the Western Counties were thrown into mutiny against the Government. In vain were they threatened with all the vengeance of the Crown, and with the quartering upon them of a lawless soldiery. In vain were the King's forces, then employed in the north of Ireland, ordered to concentrate upon the coast nearest to the shores of Ayr and Galloway. Some, with loud remonstrances against the legality and justice of such a bond—some, with silent and passive but effective resistance—a few only with even a nominal compliance—but all with one heart and mind, either refused to take, or avoided to act, upon this infamous engagement. The Government then bethought them of one other resource. They could invoke the Clans. The powers of Chartered Ownership had failed them. They determined to appeal to Celtic Feudalism. And, sad to say, Celtic Feudalism answered with a bound.

The letter of Charles II., approving of this infamous proposal, was signed on the 11th December 1677. Presbyterian historians, apparently on solid grounds of contemporary evidence and knowledge, universally ascribe this idea to the suggestion of the Bishops and their clergy. The Government at this time was dominated by the spirit of religious persecution, and as Wodrow quaintly expresses it, "almost entirely in the hands of Prelates, grated by the growth of those who dis-



owned them.”<sup>1</sup> The Proprietors in the Western Counties were told that unless they complied, the well-known predatory Clans of the Highlands would be armed, assembled, and let loose upon them. This atrocious threat was carried into execution. Chiefs were found who were base enough to use their traditional power over their vassals and retainers for the purpose of invading the Lowlands like a foreign army—of living at free quarters upon the property of their countrymen, and by the licensed licence of an undisciplined soldiery, of compelling all Proprietors to become the instruments of tyranny over their Tenants. The old obligations of Celtic Feudalism in respect to “Hosting” were called into operation, and a force of no less than 6000 men was launched upon the Western Counties to punish the patriotism and humanity of Owners through the servility and despotism of Chiefs. This force is known in the history of Scotland as “The Highland Host.” During several weeks, from the end of January to the beginning of March 1678, it devastated some of the most prosperous districts in the counties of Lanark, Renfrew, and Ayr, until at last its own Chiefs and the Government began to be ashamed of the results, and the Highlanders were ordered home. They returned laden with plunder, and with such hatred from the Lowlanders that even unarmed men mobbed them on the way, and the students of the University of Glasgow turned out to oppose their passage of a bridge over the swollen Clyde. Some of their heavier plunder they were compelled to sacrifice. But the damage which they had done in three districts of Ayr called Kyle, Cunninghame, and Carrick, was estimated at above £137,000—an enormous sum in those days. When, besides all this mere damage to property, we add the insults and outrages which long dwelt in the memory of the people, we cannot be surprised at the fierce counter-passions which such methods of government

<sup>1</sup> Wodrow's *History*, ed. 1837, vol. ii. p. 378.

awoke, and which culminated early in the following year in the savage murder of Archbishop Sharp.

The blame—the infamy indeed—attaching to the action of this Highland Host must be laid entirely on the Government and on the Chiefs who were its authors. The poor Highlanders employed had no understanding of the cause in which they were enlisted, nor did their habits, history, or training enable them to form any estimate of the immorality of their proceedings. Many of them were, doubtless, “broken men” who lived habitually on the plunder of neighbouring Lowlands, whilst others were bound by Celtic usages to follow the leader of their Sept, who again was probably bound under a Bond of Manrent to follow his greater Chief in all his “lawful emprises.” What more lawful quarrel could there be than against Lowlanders who would not do the Lord’s bidding in religious as well as in secular matters? What more legitimate than to have their predatory habits gratified under the direct sanction of the Crown and of their own Chiefs? All this is true, and serves to concentrate our censure on other men than the natives who came from the banks of the Earn and the Dochart, the slopes of Lennox and Lochaber, or the glens of the Mounth and Drumalban. But all the more on this account is our attention fixed on the striking contrast between the tendencies and working of Celtic Feudalism, as compared with the tendencies and working of Chartered Ownership. All the more does it condemn the Government which reversed the long-standing national appeal made and perpetually renewed during many centuries, from unwritten and licentious usages, to defined, and lawful, and recorded rights.

Most fortunately this contrast, although sharp and violent in this manifestation of it, was not a contrast marked by any line of geographical division. As in the Lowlands old feelings of Clanship, and of at least memories of common blood, were not want-

ing to sweeten and consolidate the purely industrial relations of Landlord and of Tenant, so in the Highlands no man ever owned land merely because he was a Chief, nor did any man ever occupy land as a Tenant merely because he was a Clansman. Any man at any time might become a Clansman by merely changing his name and addicting himself to a new master, or without any change of name by submitting to the bondages of Manrent. But neither of these very easy processes could give any right to the occupation of land unless his new Chief in his other capacity of Owner chose to give him a "rowm" or a farm. Everywhere, all over the Highlands, and ever since the dawn of history, the legal rights both of Ownership and of Occupation, were founded on Charters and on Covenants. These and these only could be pleaded for the security of either. The powers of Celtic Feudalism were constantly exercised in disturbing both kinds of tenure by lawless violence. But in the worst days of Chiefs and Clans they had not pretended to supplant the rights of Ownership or to supersede the laws of the Realm as the foundations of civil rights. Even among the lawless Islanders the conditions of tenure were recognised as founded on Charters and on Covenants. For all civil purposes these had been known, and legally established, for many centuries all over the Highlands, and had been every day becoming more supreme in exact proportion as each district became more settled and more secure from violence.

There is a striking illustration of this in a transaction which arose out of the meeting of Chiefs held at Iona under the direction of James VI. in 1609. No two Clans had a more ferocious feud, or one of longer standing, than the Macdonalds of Sleat and the Macleods of Harris. But in the temper of reconciliation and of repentance which was then brought about amidst the sacred memories and associations of Columba's Isle, the Chiefs of those two Clans entered into a covenant of peace.



All their slaughters, murders, and ravages committed against each other were to be forgotten and forgiven,—“all their respective friends, servants, tenants, and dependars” being answered for by their respective Lords. But lest this abnegation of all mutual hostility or revenge should be held to include or to imply any sacrifice on the part of either of them of their perfect freedom over the disposal of their own estates as regards the letting of them to whom they would, we have in the middle of the document this emphatic reservation of the rights of Ownership:—“Without prejudice to either of the aforesaid parties to set (let) whatsoever lands alleged pertaining to either of them lying within the other’s bounds as law will.”<sup>1</sup> Here we see that even in these Insular districts of the Highlands where Celtic Feudalism and the Clan organisation had reached its highest and most destructive development, it was still the acknowledged right of every Owner of land to let his Farms independent of it, and that this right of the free letting of land by covenant always emerged as the fundamental condition of tenure whenever violence was suspended and law resumed its sway.

The same fact is evidenced in a still more definite form by numerous documents among my own family papers. These show how the traditional and legally established system of letting land for fixed periods of time, and for definite rents, was actually worked in the district of Kintyre—not as regards the Lowland settlers only, but also as regards the native Highland population, which remained in large numbers when the Macdonalds had fled to Ireland. This district had always been essentially Insular, not less in its social state than in its geographical position. It had, indeed, been specially exposed to the ordinary abuses of Celtic customs. The Leases given by the Argyll family, soon after it came into possession of it, show that the cultivating classes

<sup>1</sup> *De Rebus Albanicis*, pp. 204-5.

reaped an immediate advantage in respect to those usages which were everywhere the overpowering grievance of their lives,—namely, the uncertain and arbitrary exactions to which they had been liable. Agricultural rents, indeed, could not even yet be wholly paid in money, because money was too scarce, and because the burden of turning produce into money would have been often too heavy a burden for the Tenant to bear. A great portion of the rent was therefore generally still paid in produce, so as to take that burden on the Landlord. But the quantity of produce was always definitely stated in the Lease. In like manner, old feudal dues and services in seed-time and harvest “in hunting, in watching, and in warding” were not yet wholly dropped, but some of them are evidently mere formal repetitions, whilst others are referred to as limited by a well-known scale of use and wont.

In the earliest Lease now in my possession, given in Kintyre, there is a significant clause indicative of the condition of things from what the people had suffered under their former Chiefs. This Lease refers to a small holding which would now be called a “Croft,” and the clause referred to guarantees to the Tenant “to be free from any payment of other presents whatsoever where-with the rest of the country is burdened and charged.”<sup>1</sup> On the other hand, in this, and in all the Leases granted during the rest of the Seventeenth Century in this district, as in all others, however purely Highland, there is a corresponding precision in the obligations undertaken by the Tenants. In particular, the duration of the occupancy, sometimes for five, sometimes for twenty-one years, is strictly limited, and fortified by the most specific covenants as to the conditions in which the Tenants were to leave the houses, and the fences of the farm, “at their removing.” They

<sup>1</sup> Lease by James, Lord of Kintyre, second son of the seventh Earl of Argyll, dated November 1631.

are secured in the enjoyment of the land only until the specified time is "completed and outrun." They are allowed generally to sublet, but always, and only, to Subtenants who shall "be of no higher degree than themselves," so that the tenure of both should expire together. Above all, agricultural Tenants were universally bound to obey the statutes and regulations of the Courts of the Barony. It was through these, as we have seen, that many regulations for agricultural improvement were laid down and enforced. In the Leases themselves, however, some of these obligations are inserted, as for example in respect to the planting of trees. In these Leases, moreover, there is one very clear indication of a substantial advance in agriculture, namely, in the fact that a certain number of loads of hay and straw are among the produce payable as rent. Neither of these articles was produced, in sufficient quantities to be so dealt with, in the more backward districts or in previous centuries. But the main interest of these Leases lies in their very definite and strictly legal character. They disprove the ignorant notion that land was ever let in the Highlands, any more than in the Lowlands, on the slovenly conditions of mere usage and tradition, or as it is now loosely called, the "footing of status." This would have been a footing not more, but greatly less, favourable to the Tenant, because it would have been a footing outside the law; and outside the law, in all previous centuries, there had been nothing but the indefinite exactions of Celtic Chiefship. It was everywhere the great work of Ownership, and its inevitable tendency, to induce Landlords to carry down into their own relations with their Tenants the same spirit of legality, definiteness, and limitation, which they valued so highly in their own Charters from their own Superiors. Hence it is, that in every Lease which has been preserved to us from the earliest times, the same precision of mutual agreement is always aimed



at.<sup>1</sup> Hence it is that the wording of these Kintyre Leases, granted in a district not only Highland but almost purely Insular, was as elaborate, but not much more so than we have seen the wording to have been in the case of the Scone Lease, granted in the reign of Robert the Bruce, and indicates a perfect continuity of practice, and a perfect identity of law all over Scotland during a period of nearly 400 years.

But this is not all that can be shown in illustration of the value and of the working of that great change which the Parliament of Scotland promoted, when in 1587 it made its urgent appeal from Chiefs to Owners. We have spoken hitherto of that class of Tenant which held Leases. But in those Leases themselves another class is often mentioned, namely, the Subtenants and Cottars. What was their tenure and what was their condition? In the Scone Lease it was expressly stipulated that when the Tacksman removed, at the end of his term, his Subtenants should remove also. We have seen that in all later Leases the same understanding is sustained in the carefully guarded provision that Tacksmen should not sublet to men of any "higher degree" than themselves. It is almost needless to add that in that reasonable and logical interpretation of men's mutual rights and obligations towards each other in which all law essentially consists, and upon which its maintenance depends, it is not according to reason or justice that the man who hires land from another should be able to dispose of it to others beyond the term which is the limit of his own rights concerning it. It is therefore clear that the footing on which Subtenants and Cottars were placed under the Scone Lease, granted so formally in 1311, was the footing on which they continued to hold under Tacksmen during all the intervening cen-

<sup>1</sup> One example of a sub-lease is given in the *Book of Grant*, dated 1514.

turies. But as the Leases never did place the Tacksman under restrictions as to the rent, whether in produce or in services, which he might be able to get from his Subtenants, it follows that this class of men were under no protection either from Charter or from Lease, and must have been longer exposed than any other class to the abuses inseparable from the old and arbitrary usages of the Celtic Clans. Just as most of the greater Landlords combined the characters of Chief and Owner, so did the Tacksman combine for a limited time as much of these two kinds of authority as his Lease might give to him. But as a mere Tacksman differs essentially from an Owner, and cannot be moved by the same long range of motive, since he has not the same permanence of interest, he would be under stronger temptation than the Owner to stretch his power over his Subtenants. Clearly, therefore, it is in the relation of these two classes to each other that we should expect to find the last relics of unwritten Celtic customs, and the latest exhibitions of their effect.

And as it might have been expected, so it is. Moreover, as might have been expected also, the remedy here likewise lay in the same appeal from the spirit and the interests of Celtic Feudalism to the spirit and the interests of legal Ownership.

Although, on this subject, the evidence is abounding, it is not evidence that has come much under the notice of the Historian. It has lain hid among the dusty documents connected with the management of Estates. The significance and interest of the subject has escaped the attention of those who grub among old papers to hunt a pedigree or to picture manners. Fortunately I am in possession of some of these documents which are of the highest interest, both as regards the authority of those from whom they emanate—the time to which they refer—and the lands and people they

describe. Some words of explanation, however, are required in respect to each of these points, especially on the point of time, and the significance which belongs to them on account of their place in History.



## CHAPTER VI.

### THE RESPONSE OF OWNERSHIP.

THERE is a theory very prevalent in the popular literature of Scotland that the last Jacobite Rebellion, which arose in July 1745 and was quelled on the Moor of Culloden in April 1746, marks the date of a great change in the landed tenures of the Highlands. The notion is, that before that date the old native population of the country lived in some condition of Arcadian bliss, founded on the relation between Celtic Clansmen and their Chiefs, whilst subsequent to that date their position became soon changed, and lowered into the modern relation between Tenant and Landlord, or between Owners and Occupiers of the soil.

The facts and documents which have been already dealt with in these pages, prove that this theory is a dream built up out of two separate delusions. One of these delusions is in respect to the true nature of the change which was involved in the passage from Celtic dues and services to rents fixed by contract or agreement. The other delusion is in respect to the causes of that change,—to the areas of country over which it passed,—and to the dates at which it became established. As regards the nature of that change, the theory not only mistakes but reverses the facts, whilst as regards the districts it affected, and the times of its arising, the popular idea is not less erroneous.

Systematic hardship and oppression was insepar-

able from the condition of the native population under the unlimited exactions of Celtic Feudalism. The change from those exactions to definite and stipulated rents, lasting for definite and stipulated times, was not a change for the worse, but a change immeasurably for the better. On the other hand, the last Jacobite Rebellion—"The Forty-Five," as it is still called in Scotland—marks no epoch in the history and progress of that change, which is to be compared in importance with other epochs of much older date. The Jacobite Rebellion of 1745 catches the superficial eye merely because it happens to have been the last occasion on which the Clans were marshalled in open war against the Government. But wars and rebellions of this kind were quite separate from those standing and permanent evils of the Clan system which affected most powerfully the condition of the people. Open wars against the Government—occurring almost always at distant intervals, and never of long duration,—had no other effect than some local devastations, and the loss of a few hundred lives. It was the perennial feuds between Clan and Clan, or rather between Chief and Chief,—it was the numerous, nameless, and desolating usages of daily life under the full-blown system of Celtic Feudalism, that kept down the people, and prevented the possibility of any advance in industry or in wealth. The change from this system to the system of definite agricultural rents dates, in the Eastern and in the Middle Lowlands of Scotland, from the foundation of the Monarchy,—from the first introduction of Law, and from the first settlement of the races out of whose amalgamation Scotland grew. The history of its progress is the history of our civilisation. In the Border Highlands the great epoch of its accomplishment is that of the Union of the Crowns. In the Western Highlands and the Hebrides the most memorable date is 1609, only a few years later, when the Celtic usages were condemned as the root of the misery

and barbarism which confessedly prevailed, and when the fundamental demands of peace and of law were recorded in the "Statutes of Iona." From that date all over the Western Highlands it made somewhat slow, but, on the whole, steady and continuous progress, in proportion as the rebellious Clans were broken up, and those Chiefs became firmly established who were loyal to the Government. Their interest and inclination alike induced them to merge their lawless character as Chiefs, in their lawful character as the protectors and promoters of peaceful industry, in virtue of being great Owners and improvers of the soil.

The distances of History are foreshortened to us like the distances of Space. We forget the long intervals of time that really separate events which, in perspective, seem now close together. Thus to us looking back it seems as if almost the whole time between the Union of the Crowns and the second Jacobite Rebellion in 1745 was a time full of wars. And so it was—but with long intervals between those wars, during which the silent processes of change and of advance had time to lay down and to consolidate the growing structures of Society. Thirty-six years elapsed between the accession of James I. and the first shedding of blood in the great Civil Wars of his son's reign, in 1639. During the whole of that interval progress was being made in the civilisation of the Highlands. The worst period of those wars for that portion of the country, was the period occupied by the brilliant but savage and unscrupulous campaign of Montrose, and this only lasted about eighteen months, from April 1644, when he erected his standard at Dumfries, to September 1645, when he was finally defeated by General Leslie at Philiphaugh. It is a memorable fact, too, that in this campaign the original nucleus of the army of Montrose was not composed of Scoto-Celts, but of the Irish Celts, whom he recruited through the Macdonalds of Antrim,—whom he joined



only after a journey in disguise in the heart of the Highlands,—and without whose help he does not appear to have had, or to have hoped for, any prospect of success. They were employed to ravage the western portions of Argyllshire upon their way. The courage, resource, and agility of Montrose, with the enjoyments of violence and plunder which were held out to all his followers, did at last rouse the passions and attract the cupidity of some Northern Clans, so that before his defeat his army is said to have accumulated to the number of 6000 men. But their dispersion, as usual, was complete; and when, after an interval of six years, Montrose made his last and fatal attempt in 1650, he again made it trusting to a body of German mercenaries whom he landed in the North. But the Highlanders did not flock to his standard, and it was a Chief of the purest Celtic blood—Macleod of Assynt,—who surrendered him, or in Jacobite language, “betrayed” him to the Government.

Again, after this rebellion there was a long interval of repose in the Highlands, and during part of it, under the rule of the great Protector, for seven or eight years, from 1650 to 1658, an important stride was made towards the final settlement and civilisation of the country. The master eye and the master hand of Cromwell saw and touched the root-evil of the Clans; and he made his dealings with it so conspicuous that they have caught the eye even of compilers who, with no special knowledge of this subject, write School Primers upon the History of the time. Thus we are told in one of these, with some looseness of expression, but with substantial truth, that “in order to improve the state of the people, all feudal dues were taken away. A fixed rent in money was substituted for all the services and restrictions to which the land had been hitherto liable.”<sup>1</sup>

<sup>1</sup> I quote from the *History of Scotland*, by Margaret Macarthur—an excellent Book of its class, belonging to the series edited by Edward A. Freeman, D.C.L.

The Restoration in 1660 restored everything that was corrupt and bad wherever its power reached, and we have seen the wicked purpose with which its appeal to Celtic Feudalism was made in 1677. But the work of the "Highland Host" lasted only for a few months, and no raiding expedition of this kind could affect the permanent causes which were steadily at work all over the Highlands ever since the Clans had ceased to fight among themselves. The Rebellion which was raised in 1685 by my own unfortunate ancestor, the ninth Earl of Argyll, attempting, in concert with the Duke of Monmouth in England, to anticipate by a few years the Great Revolution which was at hand, was a Rebellion suppressed in a few weeks. He brought no bands of Irish Celts to ravage his native country. He brought no Dutch or German mercenaries to fight the battles of Scottish freedom. He achieved no immediate success to attract plundering Caterans always ready to flock to those who promised booty. He represented a Cause and not a Person. The Cause was one which Highlanders had never valued. His own lands had already become largely occupied by peaceful Farmers, whilst only a remainder of the Subtenants belonged to the old idle and fighting classes. Celtic Feudalism therefore completely failed him. He did not appeal either to the rude, or to the sentimental, incitements which alone had ever moved it. He was joined by a mere handful—about 1800 men—and nothing came of his attempt except the sacrifice of his own life, and the ravage of his own estates. Yet he spoke in the light of prophecy when in his last hours he said, "I have a strong impression on my spirit that deliverance will come very suddenly."<sup>1</sup>

Three years later, the great Revolution of 1688, which was peaceably accomplished elsewhere, involved once more that appeal to the Clans—with as usual an Irish contingent—which was raised by

<sup>1</sup> Macaulay's *History of England*, vol. i. p. 563-4.

John Graham of Claverhouse, Viscount Dundee. In 1689, at Killiecrankie, the Highlanders showed what they could do in fighting. But the death of their leader was, as usual, fatal to them, for mere fighting is only one part of the art of war. This rising again was speedily suppressed, but for several years a great part of the Highlands continued in a troubled state—till in 1692, the Government insisted on the formal submission of every suspected Chief. In that year the massacre of the Macdonalds of Glencoe cast indelible disgrace on the Government of King William. But the execration with which this deed was denounced when its real nature came to be understood, is a satisfactory indication of the change which had been long in progress. Such a revival, imitation, and even exaggeration by a civilised Government, of the worst features of Celtic intertribal treachery and murder, revolted the public conscience, and the feeling it excited brings out as nothing else could do, how fast and far Society had advanced from the typical Epoch of the Clans. It is remarkable, however, that this atrocious murder was perpetrated and defended, not as a mere act of vengeance against men who were rebels, but as a sentence of execution against men who were irreclaimable marauders. And this, beyond all doubt, they actually were. Macaulay has expended all the resources of his eloquence in explaining how impossible it was that they could be anything else, living as they did in Glencoe. "All the science and industry of a peaceful age," he says, "can extract nothing valuable from that wilderness: but in an age of violence and rapine the wilderness itself was valued on account of the shelter which it afforded to the plunderer and the plunder. Nothing could be more natural than that the Clan to which this rugged desert belonged should have been noted for predatory habits. For, among the Highlanders, generally, to rob was thought at least as honourable an employment as to cultivate the soil; and of all



the Highlanders the Macdonalds of Glencoe had the least productive soil, and the most convenient and secure den of robbers."<sup>1</sup> This great crime, which has justly entailed upon its perpetrators the severest judgment of posterity, was due to the combination of two of the strongest incitements which existed at the time, first, the indignation of a civilised Government against men who, in the midst of a peaceful society, lived avowedly and notoriously a life of plunder; and secondly, the fierce and vindictive passions of a neighbouring Clan, to whose hands the punishment was committed, and whose lands and houses had been ravaged and destroyed by the unhappy victims. The massacre of Glencoe is therefore to be regarded as one of the last, and one of the most signal examples of the old evils which we have traced from the days of the Wolf of Badenoch, in the power of Celtic Feudalism to rouse ferocious passions—in the cruel and treacherous deeds which men comparatively civilised and enlightened could persuade themselves to defend and even to adopt when they came into contact with it.

Another interval of twenty-three years separates the massacre of Glencoe from the first Jacobite rising of the Eighteenth Century, in 1715. This rising was so short, and so easily suppressed, that its effects were altogether evanescent, and can hardly have interrupted in the smallest degree the gradual and steady processes of change which were happily bringing to an end the terrible abuses and miseries of the Clans. The Rebellion was suppressed within Five Months. There were the usual incidents—the treachery of Chiefs—the gallantry of their Highland followers. The Earl of Mar attended a Levee of George I. on the day before he left London to raise the standard of the Pretender in the valley of the Dee. In their invasion of England, where, as is well known, they penetrated as far as Preston, they were miserably led. On the other hand, at the

<sup>1</sup> Macaulay's *History of England*, vol. iv. p. 192.

Battle of Sheriffmuir, the Clans fought with their accustomed courage, and won quite half of the honours of the day. But for more than a single battle the military power of Celtic Feudalism was nearly gone. Their surrender in England at Preston, and their dispersion in Scotland, after Sheriffmuir, mark the low point to which it had already fallen.

Again, we have another long interval, from the Rebellion of 1715 to that of "The Forty-Five," an interval of no less than thirty years—or, as it is usually reckoned, a whole generation. This is one of those many intervals between conspicuous events, over which the eye of the historian often passes with a careless and unobservant glance, seeing nothing that catches his attention, or at least nothing of a large class of facts which, nevertheless, are of far higher interest and importance than the cycle of rebellions. Now it is in respect to this interval of time—an interval during which a whole generation was born and rose to manhood, before the last of our civil wars—before "The Forty-Five"—that I am in possession of documents which singularly illustrate the continuity of Scottish history, and the identity of the processes of change through which our civilisation had been steadily advancing over the whole Kingdom from the days of Malcolm Canmore.

Having now indicated the period to which these documents refer, and its importance in an historical point of view, I must add a few words in explanation of the men whose evidence they contain. The management of great Baronial Estates in those days was an object of ambition among men of the highest position in society. It was an employment which had all the dignity, and variety of interest, and extent of power, which belonged to the government of a Province. Smaller Proprietors of land of the oldest families, Clansmen nearly related to their Chief, and men of high public positions, even on the Bench and at the Bar, were among the number of

those who undertook such duties, and who devoted to them all the knowledge and culture of their day. Such was the character and position of the two men whose narratives and reports I am about to cite.

Nor is it less important to observe the position of the districts respecting which their evidence is supplied. We have seen how long and how late the worst evils of Celtic Feudalism lingered in those Western Isles of Scotland, which had always been most inaccessible to the central government, and amongst which savage intertribal wars had for many generations kept the people in poverty, and the Kingdom in frequent uneasiness and alarm. We have seen, nevertheless, from the Conferences of Iona, held in 1609, that all these habits and customs were confessed and acknowledged by the Chiefs themselves to be barbarous and illegal, and that reversion to the system of regular rents and of tenures known to the law, was the admitted remedy, and the promised reform. We have seen that in Kintyre the system of agricultural Leases and generally all the relations of Landlord and Tenant came naturally into full operation the moment that district was freed from the Clan Donnel, the last representatives of the old Lords of the Isles, and of a family which for centuries had upheld and handed down the picturesque but savage customs and traditions of the Clans. We have seen, too, that the tenure by Lease which had been enjoyed for centuries, even in the Hebrides, by the blood-relations of the Chiefs, was now in that district extended to those poorer men who constituted the great bulk of the population, but who formerly were only Subtenants, without any tenure except that which arose out of the necessity of having men who could render "services." These services never were exclusively military. The spade-plough<sup>1</sup> was more constantly needed than

<sup>1</sup> The "cascroim," the ancient implement of Celtic agriculture—a heavy spade driven by the foot. The word means "crooked foot."



the sword or the pike. They included every kind of labour, and every kind of exaction by which the produce of labour could be made to support the power, or minister to the rude but lavish and wasteful expenditure of the Chiefs. This great process of the emergence of law and order from under the overlying burden of Celtic violence and confusion, is a process which we have thus seen in its earliest results, but which hitherto we have not seen in the details and methods of its operation. Yet it is these details which are the most interesting facts of all in the history of civilisation—the steps by which so great a reform was made—the action of those who were agents in it—the exact condition of things with which they had to deal—and the nature of the powers which were the instruments of their work.

All this is precisely the information supplied to us by papers connected with the management of certain estates which fell into the possession of the Clan Campbell, along with or soon after the acquisition of Kintyre. These estates were purely Hebridean—lying in the Islands of Mull and of Iona, and in the adjoining peninsula of Morven, with one of the outer Islands, Tyree, which had from the most ancient times been closely connected with Iona. All these lands had for centuries been dominated by the Clan Maclean, whose brave but fierce and lawless Chiefs now sleep in numbers beneath the sheltering stones, and the rude knightly effigies of the Reilig Oran.<sup>1</sup> In 1732, about half-way between the two Jacobite risings of 1715 and 1745, Campbell of Stonefield, Sheriff of the County, was sent to examine and report on their condition. From that Report we learn that these lands were universally held in Lease by gentlemen who were themselves either members of the Clan Campbell, or in some cases were Macleans, or by others who, according to

<sup>1</sup> This is the Celtic name of probably the oldest place of burial still used in the British Islands—that surrounding the walls of St. Oran's Chapel, near the Cathedral of Iona. It dates from the Columban age, the 7th century. "Oran" was one of Columba's followers.

the common habit of the Celts, had submitted to the new Chief who was also the new Proprietor. Under these gentlemen came the families of the native population, who were called Tenants, but who were only Subtenants, holding at the will of the Leaseholders or Tacksmen, and complaining bitterly of the oppressions under which they laboured. It was the first business of the Sheriff to inquire into the truth of these complaints ; and though he indicates that they were exaggerated, yet, in the most practical of all ways, he supports them by suggesting the only remedy. The old Celtic exactions levied by the Chiefs and Chieftains upon their Subtenants, rested and could only rest upon the ultimate power of removal. The Subtenants were not protected in respect to rent or services by any definite covenant or bargain, nor were they protected in respect to tenure by holding for any definite time. Very often the Tacksmen had brought them in upon the lands when these Tacksmen themselves obtained their Lease, just as we have seen that this was the actual case when the De Hays took a farm from the Abbot of Scone in 1312. Moreover, as in that case so in many others, there was an express stipulation in the Lease that the Tacksman should remove these men when he himself removed. In all cases of "Tacks" during all the intervening centuries the Leaseholding Clansman and Tenant held the complete power of the Owner over all his Subtenants, unless this power was restrained by the terms of his own Lease on behalf of the Proprietor. But any such restriction does not appear to have been common, and in the Western Isles, where the powers of Celtic Feudalism had been widest and most unchecked, it was probably unknown. There the dependence of the Subtenant upon the Tacksman, who alone represented the power and position of the Proprietary Chief and the authority of the Clan, was complete and absolute. The proper remedy then was clear,—now that men were giving

up the life and the habits of the Clans, and were beginning to look steadily to the improvement of the country, and to the increase of its value, founded upon the increased produce of settled industry. The remedy was to give to the Subtenants the same kind and degree of security which had long been given to the relatives of the Chief—that is, the security of a Covenant or Lease. This accordingly was the policy recommended by Sheriff Campbell. The Leases of certain Tacksmen were about to expire. He advised that they should not be renewed except upon new conditions. Their Subtenants should have the same kind of protection which they themselves enjoyed. The rents and services of these men should be fixed and definite, and their tenure should, in like manner, be of a specified duration. Nay more, the larger Tenants should be bound in their Leases to cause better houses to be built for the smaller class of holders, where these men continued to be Subtenants at all. Many of them, however, were to be lifted out of this category altogether. They were to have Leases directly from the Proprietor, and to become themselves “Tacksmen,” with the full status and security of that class.

It is important to observe that this proposed reform rested entirely on the possession and on the exercise of the fullest powers of Ownership on the part of the Proprietor. Moreover, it rested on these powers as exercised over the very pick of those who represented and indeed constituted the Clan. It was the old class of Tacksmen, who held whatever rights belonged by Celtic usages to the blood and personal following of the Chief. Yet, we see here that when these Leases came to an end, the Proprietor of the lands they held could tell them that unless they agreed to entirely new conditions, they must make way for other men. This was the only power of enforcement which the Proprietor could hold or could exert in modifying, reforming, or extirpating the oppressive usages which had become established



among the Celts. Nor was this power of removing Clansmen from Farms at the end of their Leases a power which was used as a threat only, without being actually exerted. It was used, as we see, from the Report of Sheriff Campbell, in a great number of cases where the lands were re-let directly to the old Subtenants, or to new men who were more likely than their predecessors to work the new system with intelligence and fidelity. Although this Report was written thirteen years before "The Forty-Five," which is popularly supposed to represent an epoch of change in tenures, and although it goes back to a previous condition of things which implies an unbroken history of many centuries, there is not even a hint or an expression which implies that any doubt existed in the minds of any of the various classes concerned, that the Proprietor was exercising any other powers than those which were not only known to the law but were also familiar to the people.

And as this power was the only engine which could be used to redeem the poorer classes from the oppression of others, so also was it the only engine which could be used to redeem them from the consequences of their own ignorant and barbarous customs. Just as the prohibition and abandonment of some usages, traditional among them, was imposed upon the Tacksmen under the penalty of removal, so the prohibition and abandonment of other usages, as old and as firmly established, was imposed upon the class of Subtenants—under the same penalty of having to leave the estate if they were unwilling to accept the new conditions. In both cases, equally, the first steps towards a civilised condition, and towards agricultural improvement, were taken, and could only be taken, on the strength of the fullest powers and rights of Ownership. Nothing short of those powers could have overcome the desperate tenacity of the people in resisting every change and clinging to habits which, originally

bad, had gone from bad to worse through that great law which determines the development of corruption. It is proved by the whole tenor of Sheriff Campbell's Report that the domestic economy of the people in this part of Scotland had remained worse than stationary for more than a thousand years. Although they lived in a country where rock and stone were abundant, and in general easily accessible—although a whole Island<sup>1</sup> of the finest limestone lay off both Mull and Morven, and was separated from them only by a narrow strait—although the people had before their eyes for more than six hundred years the rough but massive and splendid masonry of the Cathedral of Iona and of St. Oran's Chapel,—yet they continued to live in hovels composed of nothing more solid than turf lined, and perhaps propped on the inside, by wattled branches of birch, oak, and hazel. These were the lineal descendants of the houses, dating from prehistoric times, which sheltered Columba and his brethren in the Sixth Century, and on which it seems that no step of advance had been made near the middle of the Eighteenth, or during an interval of about eleven hundred years. The rapid decay of such structures, the constant necessity of removal, was leading to the destruction of the scanty and shaggy brushwoods which alone represented the ancient Caledonian forests. This, however, was by no means the worst feature of the case. Huts of turf and wattled twigs may be quite as warm and comfortable as many of the hovels which in Ireland and in some of the Hebrides are now always built of loose stones without cement.

But in a much more important and vital matter, namely, the husbandry of the people, there is clear evidence of a ruinous decline. It is impossible to read the details given in Adamnan's *Life of Columba* of the agricultural operations of his Monks in Iona, and to compare them with the

<sup>1</sup> The Island of Lismore.

facts given in Sheriff Campbell's Report, without seeing that there had been a terrible and a truly barbarous decline. It had become the universal custom of the people to cut their corn crops of oats, or an inferior barley, high above the ground. The considerable portion of straw which remained attached to the ear was then destroyed by fire, the ear itself being much wasted in the process. This was the only process by which they knew how to get at the grain free from husks, the half-roasted grain falling out during the combustion, and being afterwards roughly ground by the hand between two stones, a primitive form of Mill, called Querns, which has survived to our own day in some of the remoter Hebrides. The remaining straw which had been left upon the ground, instead of being used for the food of cattle, or for manure, was used for thatch—the whole of this valuable product being thus practically lost—because fern and heath, which was in “great plenty” all over the country, would have made better thatch, and was useless for other purposes. All these barbarous and wasteful usages had been the natural and inevitable result of the insecure life which all classes had led in these countries under the system of the Clans. Men will not even think of building substantial houses, nor barns with threshing-floors, nor mills, when such erections, together with their owners, were constantly exposed to destruction by fire and sword. It was a positive advantage, under such conditions, to have no buildings except such as could be raised in a couple of days out of materials delved with the spade and cut by the hatchet. As usual, men being such creatures of habit, very soon lost all sense of the want of better things. In 1723 the gradual settlement of the country had so far proceeded that one or two of the Tacksmen had built Corn Mills. But the people persisted in using the old Querns. So it was with everything. No improvement could gain even a momentary footing, except when imposed upon the



people by the authority of those from whom alone their tenure came. Accordingly throughout Sheriff Campbell's Report every proposal he makes is founded on the unquestioned right of the Owner of an estate to let it to whomsoever he liked, and on whatever terms he could get Tenants to accept possession. Moreover, we see that this power was used not only sometimes and in a few cases, but systematically over large areas of land. It involved very often no less than the old immemorial work of "planting" the country with selected men.

In making this selection political ends were inseparably blended with economic considerations. The Clans of the mainland had been longer in contact with the advancing civilisation of the Low Country. They were both the most loyal men and the men best acquainted with such improved methods of agriculture as were known in that day. Accordingly when a Clansman secured a Lease of some large tract of land in the Western Islands, it was often his first care to plant it with Campbells, or others of his own dependants brought from the mainland of Argyllshire. Thus the Sheriff reports of three well-known such tracts in the Island of Mull, that having been formerly let on Lease to gentlemen of the name of Campbell, these Tacksmen "had gone a good length to plant there several districts with people of the same name, or their friends, and that it must be acknowledged the Tenants were beginning to manage those lands better than the rest of the country." In marked contrast with this result, he reported in respect to another district, that it had been let to one of the old Clan of M'Lean, and that he, in true Celtic fashion, "kept a swarm of poor people of his own name around him who had neither the skill nor the substance (capital) to manage the land to any purpose." The "keeping" of those people on the farm is not ascribed by the Sheriff to any difficulty in removing them arising out of Tenure, but expressly

to the "lenity" of the Tacksman. The truth probably was that he followed the traditions of his class, which encouraged a crowd of dependants, who performed for the Tacksmen all the services they required, and were content themselves with a bare subsistence. This, with occasional plenty, could generally be obtained in former times by plunder, and in 1723 it was only beginning to be felt by these poor people that even a bare subsistence could not be secured when plunder had been stopped, and before industry had begun.

There is no indication, however, in the Sheriff's Report that he saw or even thought of any excess of population over the resources of the country. On the contrary, one of the stipulations he recommends for the new Leases was that the Tenant should be bound to bring into the country, and plant a certain number of men as Subtenants, who should cultivate what was then practically waste. These men, thus introduced and planted by the power and care of the Proprietors, together with those other Subtenants to whom he gave Leases, and redeemed from the exactions of the larger Tacksmen, are the progenitors of the men now known as "Crofters." They have been mythically represented as a native population inheriting for centuries a certain fixity of tenure, independent of the Owner, whereas the historical fact is that the process by which they were "planted" is in many cases, as we shall see further on, later even than 1737 by more than half a century.

There is, moreover, another part of the Sheriff's Report which shows the unquestioned power then exercised by the Landlord in the disposal of his property. This part relates to the question of rents. It was no easy question under the circumstances of the case. The money rents previously paid by the Subtenants to the Tacksmen were ascertained by an examination on oath. The services exacted, too, as well as any fines or feudal dues, were found out as

nearly as possible by the same method. But as it was one great object to put an end to Services, and to all dues or exactions merely arbitrary, the difficulty remained as to the additional rent which the commutation of these Services would be fairly worth. All these points resolved themselves at last into the value of the produce of land under the existing conditions of agriculture, but taking into account such of the new conditions as would tell at once on the profit of the Tenant. But here again the Sheriff was met with the difficulty that he was accustomed to consider land values only on the mainland, and did not know enough of the local circumstances to estimate such values in the Islands. This problem could only be solved by taking the values set upon the land by the people themselves. In other words, it could only be solved by putting the lands up to local competition. As soon as the people were assured that they would be protected by Leases and by the authority of the Proprietor, from the resentment and vengeance of their old masters, the Tacksmen, it was found that they came forward and offered freely for their small possessions.

Here we have an example—not of conduct being governed by abstract theories, but—of an abstract principle emerging out of the practical necessities of conduct, and seeking expression in a “rugged maxim hewn from life.” The worthy Sheriff was not thinking of any science of Political Economy when he said that until the Subtenants could be persuaded to offer frankly “he could have no tolerable information of the value of the country, since it is by the competition of tenants that the value of land can be known.” Political Economy, as a science, had not risen above the horizon in Scotland in 1732. Adam Smith was then a weakly, but a studious and absent little boy, nine years of age, doing his lessons in the grammar-school of Kirkcaldy, and forty-four years were yet to elapse before the epoch of



his immortal *Inquiry into the Wealth of Nations*. The Sheriff's aphorism on the only method of ascertaining values was nothing more than the half-conscious expression of a general rule drawn directly from observation and experience. None the less is this sentence an emphatic, because an unconscious, testimony to the doctrine and the practice of the time: and none the less was the conduct of the people in those Insular Estates a testimony equally emphatic to their own recognition of the practice, not as an oppression but as a privilege. It implied of course that the Owner of the Estate had the right of freely disposing of his lands, as an inseparable part of the right of Ownership. It implied also that they themselves had no other right of tenure than that of agreement, and that failing such agreement they were liable to removal. But no doubt or question as to either of these facts had ever entered their heads. Nothing in their own past history or traditions could have raised it. Some of them probably knew that their fathers had moved from the lands of one Chief who could not protect them, to the lands of another who could. Others of them perhaps knew that their progenitors had at no very distant date enlisted under the Chief of the Macleans as soldiers enlist under a famous Captain, and had been allowed to settle on his lands as his "men" and retainers. Others again, doubtless, had themselves been removed at the end of a Lease from the farm of one Tacksman Tenant to the farm of another. All of them knew by daily experience that upon these Tenants they themselves were absolutely dependent, and could and would be removed if they failed in dues or services. Lastly, they all knew that those who were above them—the Tacksmen, their masters, and often their oppressors—who were the very aristocracy of the Clan,—themselves held their lands by no independent right, but by Leases terminating at certain dates, and freely

granted by the Proprietor. It was not a loss, but an immense gain to them to be raised from tenancy-at-will to tenancy under Lease. For the first time in their history they were free to bargain for their farms. For the first time they could be sure that nothing would be exacted from them beyond the terms of that bargain, and that their removal could not take place except for breach of covenant, or until the expiry of a certain time. Accordingly the Sheriff reported that when they were fully assured of protection they came in and offered for these new and great advantages a considerable augmentation of rent.

We have here the clearest evidence of the perfect continuity of law and of practice in respect to the Ownership and Occupation of land which has marked the progress of Scotland over the whole of its area and from the earliest centuries. We see the fullest powers of Ownership assumed and recognised as undoubted and unquestioned, and we see its functions in promoting the civilisation of the country as clearly as we have already seen it at earlier periods when Parliament appealed to it for the suppression of intolerable evils. Lest, however, this evidence of Sheriff Campbell should be in any way subject to detraction from his relations with his Chief, by a fortunate accident we have, a few years later, the same evidence confirmed and amplified on the authority of an independent and a very celebrated man.

Among the names of illustrious Scotchmen at this critical period of our history, there is no name, perhaps, which shines with a purer lustre than that of Duncan Forbes of Culloden. Himself a Highlander of Highlanders, with an intimate knowledge of their character and habits, he was able to sympathise, so far as mere feeling was concerned, with the personal attachments which made them Jacobite. But his religion, and his culture, and the noble profession of the

Law—of which he was a distinguished ornament, and of which he rose to be the head in his native country—kept him true to the historical developments of the Scottish people. He used all his influence, and strained every nerve to prevent the Rebellion; and when it was suppressed, by the bloody battle fought upon his own Estate, he exerted himself with equal energy to mitigate the vengeance of the Government against the vanquished. As a Statesman, as a Lawyer, and as a Highlander belonging to another and a distant Clan, he had pre-eminent qualifications for giving wise advice on the difficult questions—partly political and partly economic—which were involved in the management of such Estates as those which had come into the hands of the Argyll family in the Islands. The possessor of them at that time was John, the Second Duke (1678-1743), who as a Soldier played an illustrious part in the wars of Marlborough, and at home as a Statesman took a share not less illustrious in the Councils which, at the death of Queen Anne in 1714, secured the Protestant Succession.<sup>1</sup> These two men were intimate friends. Their sympathies were the same in the great Constitutional questions of their day, and they were not less alike in those dispositions of character on which so much depends in the management of affairs. Difficulties had evidently arisen in carrying into effect all the recommendations of Sheriff Campbell. He had said in his Report that the people seemed “bewitched” in the tenacity of their adherence to their waste-

<sup>1</sup> Lecky's *History of England*, vol. i. p. 164. It is a curious illustration of the power of genius in Sir Walter Scott's immortal works, that this Duke—the companion in arms of Marlborough and Eugene—the friend of Pope and Thomson, and sung by both—is nevertheless now commonly identified as “Jeanie Deans' Duke” from the beautiful and touching story in the *Heart of Midlothian*. The additional Dukedom of Greenwich was granted to him by Queen Anne for his public services. As this Duke had no sons, the Title of Greenwich lapsed with his life. The present Duke of Buccleuch is his only direct descendant, through a daughter.



ful customs. The Tacksmen had opposed a passive but combined resistance to changes which affected so much their own power; and they had easily succeeded in persuading the simple and ignorant people under them that old customs were better than new conditions. Under these circumstances, and in view of the expiry of a number of existing Leases, Forbes of Culloden, in the same year in which he attained the dignity of Lord President of the Supreme Court of Law in Scotland, 1737, undertook for his friend a mission to his Island Estates in Mull, Morven, and Tyree.

The account of his journey, and the Report of what he saw and encountered, is one of the most interesting and authentic documents we possess in respect to the condition of the people of the Western Coast and Islands at that time.<sup>1</sup> It confirms the previous account of Sheriff Campbell in every particular. The Lord President is emphatic in his testimony, and severe in his language as to the use made by the Tacksmen of the absolute power they held over the subordinate tenants. He speaks of their "tyranny" and "oppression." He speaks of their "unmerciful exactions." He speaks of the land even lying waste by reason of these exactions, and declares that "if the system had continued but a few years longer, the Islands would have been entirely unpeopled." He reports that within the previous seven years "above one hundred families had been reduced to beggary and driven out of the Island." Yet these Tacksmen were the genuine representatives of the Clan system. They constituted, in fact, what was called the Clan—for those below them had long ceased to be treated or regarded as more than "the men" under them; it is plain, that both by law and by continuous usage, the Leaseholding Clansmen ruled with absolute

<sup>1</sup> It has been now published in Appendix A to the "Crofter Report," 1884, vol. i. p. 387. It was recovered among the papers of Lady Mary Coke, daughter of John Duke of Argyll and Greenwich, by the present Earl of Home, who most kindly presented it to me.

power—that is to say, so far as the possession of the land was concerned.

Historically speaking, the existence of this power—more than the use made of it—is the important point. The use made of it must have varied in different districts, and still more in the hands of different men. But the fact is all-important that this absolute power is referred to as universally existing in the hands of the Tacksmen over all who held land under them. No doubt on this fact is even thought of. Throughout the narrative there is not one single indication of any limitations or obstacles in the way of this power, arising out of any independent or customary rights of subordinate tenure. The Tacksman held over the whole of his Farm, and, during the term of his Tack, the whole powers of Ownership, in so far as they were delegated by the Lease. Amongst these powers there was of necessity the power of removing those who would not, or could not, pay the rents or perform the services which the Tacksman might demand as the condition of possession. But since that demand was indefinite, and variable from year to year, the condition of the Subtenants was necessarily precarious. For such evils there could be only one remedy. They arose from the powers of Ownership being separated from its special interests, and therefore from its natural motives. They were delegated to men whose own possession was not permanent, and whose interests were therefore not identified with the growing wealth and permanent prosperity of the people. The remedy clearly was to go back to a connection founded on the nature of things—to keep in the hands of the Proprietor, and in his alone, the power of removal—to deal directly with the Subtenants—to give to them the same measure of security which the Tacks-men had themselves enjoyed. It was, as Culloden<sup>1</sup>

<sup>1</sup> I adopt here the Highland custom of calling Forbes by the name of his estate.

expressed it, "to deliver them from the tyranny of Tacksmen, to free them from the oppression of Services and Herezelds, and to encourage them to improve their farms by giving them a sort of property in their grounds for nineteen years by Leases, if they showed themselves worthy of the intended favour by offering frankly for their farms such rent as fairly and honestly they could bear." If farms with Subtenants on them were to be let at all to the old class of Tacksmen, these Subtenants were to get a separate tenure, subsisting for the same period as the Lease.

Such, accordingly, was the policy adopted by Culloden, as it had been already recommended by the Sheriff. Culloden, however, came not only to recommend, but also armed with authority to act upon his opinion. Accordingly, he announced to the Subtenants that he was prepared to let their lands to them upon Leases, and he invited them to offer. To the Tacksmen he made the like proposal, under the stipulated restrictions and conditions. To his surprise he found himself met by an organised combination not to offer at all, or to offer only very inadequate rents. The Tacksmen had persuaded the Subtenants to regard with fear and with suspicion the proposals made to them. The first thing to be done was to break up a combination which rested on the cunning and selfishness of a few, and on the ignorance and prejudice of the many. And this Culloden was prepared to do at any cost. During some days of explanation and persuasion, he found the most effectual argument to be a warning that he would leave them in their former subjection to the Tacksmen. At last the truth dawned on the minds of some of them, and he induced a certain number of the small Tenants to make tolerably fair offers for their holdings. These offers he immediately accepted, and concluded a bargain with those who made them. Dealing with the Tacksmen, he was more



peremptory and severe. He had in his own suite some gentlemen of the same Highland class, but who, from living on the mainland, were better acquainted with the essential conditions of agricultural progress. Some of these were induced to make fair offers for the larger farms, whose former Tenants were manœuvring so unscrupulously to thwart the most necessary reforms. Suddenly several of these men found that their farms were re-let to others, and that they themselves were dispossessed. Such examples speedily had the desired effect. The Subtenants, when they found that any reasonable offer of their own was at once accepted, and that they ran no risk of being relegated to the dominion of the Tacksmen because of a higher offer, came in readily, and became themselves regular Tacksmen—relieved from all but a few stipulated services, and possessed for the first time of a definite tenure of their small possessions. The remaining Tacksmen also became more reasonable, and in the final result Culloden had the satisfaction of reporting that those large Insular Estates had been re-let, with some little immediate increase of rent, and under such new conditions as would lay the foundations of indefinite improvement for the future.

The Leases which were given at this time carried fully into effect the great reform which it was their object to attain. Many of them were given directly to men who had been Subtenants. Amidst the almost universal neglect and destruction which have overtaken old Leases, a fortunate accident has preserved some few specimens of those which were drawn up by Culloden, and signed by him as Commissioner over the Duke's Estate, at a time when he himself had become Lord President of the Court of Session. They are of considerable interest on more points than one. The application to Subtenants, who had always been Tenants-at-will, of the old law and practice of Scotland in respect to

Leases of Farms, was not without some difficulties. Not only in the Highlands, but all over Scotland, this class of Occupier lived in clusters, groups, villages, or "Clachans." Some parts of the Farm they generally held in common. Other parts they held in various shares, generally divided on the "runrig" system by yearly lots. Partly, no doubt, for facilities of defence, partly as a traditional survival of mere habit from the far-distant day of Village Communities, this method of occupation was nearly universal. But never in historic times had these Townships any corporate existence either in law or in usage. For centuries the Proprietors had been moving some, and planting others, whilst individuals were brought in from time to time by the same authority, with the grant of "rooms," or of shares or portions of the Farm. To whom then, were the new Leases to be given? To the group, or to the individual Tenants of whom the group actually consisted at the time? Culloden was not a man to be foiled by speculative difficulties, nor was he a man to make any changes not really needed for his purpose. He solved the difficulty by taking things as they actually stood, by changing as little as possible, and by applying the principle of the Lease to the actual Occupiers, and according to their actual methods of occupation. Thus in the case of one Farm occupied by six Tenants, but unequally divided, a Lease of 1739 was granted by name to each of them, but with a specification of the share belonging to each man or woman. The whole Farm as known by its name, with all its pertinents as known by use and wont, is let to the six Tenants, for the term of nineteen years, in the proportions specified—one-half to Hugh M'Lean, one-sixth to Rachel MacArthur, one-twelfth to Donald Macdonald, and so on. Thus far, the Tenants were dealt with separately, and the Lease was given to each in his individual capacity. That which the Lease assured

to each of them was the "peaceable possession" of the Farm, in the specified shares, "during the space (of time) aforesaid." Subletting, or assigning, was excluded, but each Tenant could leave his share to his natural heirs. On the other hand, there was a clause which recognised all the Tenants as in some sense, and for some purposes, a Community, because in some practices they were so of necessity, from living so close together, and from possessing more or less grazing land in common. This clause was a special provision, that in case of the failure of any one of the Tenants, the others were bound either to take up his share themselves, or else to find another fit Tenant who could do so on the same conditions. The rent was a fixed sum for the Farm as a whole, for which all the Tenants were bound as a Community, jointly and severally. Failure in the payment of rent voided the Lease, and the Proprietor was then free to re-let the Farm to others. The share payable by each was left apparently to their own arrangement, but the arrangement would naturally follow the proportions specified in the Lease. Then, after the clause fixing the rent, comes the new clause which constituted the great reform in favour of this class of Tenant—the clause in respect to Services. The words are these (following the sum of rent):—"and that (sum) in full satisfaction of all Herezelds and other prestations (obligations) and services whatsoever, which are hereby discharged,—except the services of Tenants for repairing harbours, mending highways, or making or repairing Mill Leads (conduits) for the general benefit of the Island." <sup>1</sup>

In these words we see the symbol and consummation of a change which amounted to a revolution. In the abolition of all Services, except a few strictly limited and defined, which were for purposes directly connected with the benefit of a whole district and of a large community, we see the last step, or

<sup>1</sup> This Lease, with explanatory notes, is given in Appendix I. p. 485.



almost the last, from the mediæval to modern conditions of society. In the admission of a class to the benefit of Leases who had hitherto been always merely Tenants-at-will, and had in practice been often compelled to move from the necessity either of seeking protection or of rendering service, we see the elevation of a large portion of the people from a state of complete uncertainty and dependence, to a state in which they could themselves rely, and could make others rely, upon definite engagements.

Nor is the significance of these Leases given to Subtenants some years before "The Forty-Five" exhausted, when we have noted the clauses which they do contain. Hardly less remarkable than the insertion of some of these clauses, is the omission of other clauses which in such Instruments had been almost universal. Services of a military kind had for many hundred years been among the fundamental obligations of those to whom the occupation of land had been lent or given. Even in the Kintyre Leases, which we have seen were granted about one hundred years before the Leases framed by Culloden, there were at least some surviving echoes of the Military Ages. In the full stream of those Ages, when we put our ear to the language of such Instruments, we hear, as it were, always the sound of fighting—the atmosphere of war. If it was not always being actually waged, it was at least always in habitual contemplation. In the Leases of about 1639 there are only a few customary phrases, coming from the old days—phrases, which were even then little more than survivals of a time drawing to its close. Under the influence of the alarm which was occasioned by the first Jacobite Rebellion of 1715, Parliament had in that year<sup>1</sup> prohibited, as contrary to public policy, all clauses in Charters or Leases which imposed the ancient obligations of "Personal Attendance, Hunting, Hosting, Watching, and Warding." These had

<sup>1</sup> First of Geo. I. cap. 54.

been the last survivals, but they had long been practically obsolete. They now became illegal. Accordingly in the Leases of Culloden in 1739, there is not even a whisper of the kind. We have entered finally on the times of peaceful industry.

But there is another feature of these Leases which is remarkable. Just as some old customary clauses were dropped, both as obsolete and as no longer lawful, so also some other clauses which were soon to become universal, had not yet come to be introduced. I refer to what are called the "cropping clauses"—stipulations to secure good husbandry, and to prevent the deterioration of the land by gross violations of its rules. In those Leases of 1739, there is not a word upon the subject. Doubtless this was due to the fact that the attention of Culloden was concentrated on the one great fundamental reform of establishing in the class of Subtenants the principle of tenure by Lease and at a fixed rent, instead of tenure at Will, and subject to services vague, indefinite, and unlimited. One step at a time—seems to have been his motto and his method of proceeding.

But curious and instructive as these facts are, in respect to the first steps then taken for improving the condition of the Western Highlands, they would be incomplete without giving some account of the evidence we derive from the same distinguished man as to the depths of ignorance and of barbarism into which the people had actually fallen, and on the necessity for further steps of remedy and reform. Culloden was not content with visiting Mull and Morven—districts which were near to the mainland and comparatively accessible. He determined to inspect personally the Island of Tyree, which lies from twenty to thirty miles farther out into the Western Ocean. Unlike the nearer Hebrides, this Island is not mountainous but low and flat, with large areas of very fine land, capable of raising excellent crops of corn. Its very name is said to be derived from

its agricultural richness—the Iona Monks having called it “*Terra Ethica*,” the land of corn;<sup>1</sup> and its Celtic name still retaining the letters of this derivation in the form of *Thirithe*. The climate is better than on the mainland, because the heavy rain clouds which shed their torrents on Ben More and the other hills of Mull, pass over without notice the unobtrusive levels of Tyree. An old Gaelic poem calls the Island “the Low-lying Land of Barley.” Even without any culture the natural grasses and pastures of the Island are exceptionally green and rich, so that cattle can live and thrive upon it with less help than is generally required in the Highlands from food prepared and stored by human foresight. Yet on this Island, so favoured by nature, Culloden found the people far poorer than in the Isle of Mull, where soil and climate were all greatly inferior. The conditions of agricultural knowledge and practice which he found prevailing may well seem incredible in a country where, undoubtedly, a far higher civilisation had given lessons to the people more than a thousand years before. Barley was the staple produce of Tyree, but the land, from never being allowed to rest and from being never manured, was so overrun with rank strong weeds that it was an absolute impossibility to drive a sickle through it. Culloden never saw fields covered with a greater load of herbage than the corn-fields in Tyree, but when this herbage was examined not one-tenth part was corn, the rest being all wild carrot, mustard, and other weeds. The poor creatures who depended on these crops did not know how to clear the land of this vegetation, into which all the natural fertility of the soil was allowed to pass. As they could not cut their corn they knew no other mode of gathering it than by pulling it up by the roots. Then they sacrificed the straw

<sup>1</sup> The word “*ech*” or “*ich*” signifies corn or barley, and the name of the Island passed through several stages of decay during the Fourteenth and Fifteenth Centuries. See Reeves’s *Adamnan*, p. 48.



by burning, whilst the grain, from being half roasted, became unsaleable. Even this operation could not be performed until the noxious seeds had ripened before the corn, and had time to be shed upon the land to the still more complete suffocation of each succeeding crop. These were but samples of innumerable other practices, equally barbarous, which Culloden had not time to specify or describe, but which he dismisses with the significant general description, "all the other ridiculous processes of husbandry which almost utterly destroy the Island." He traces all these evils to the ignorance and poverty of the people, consequent on the exactions of the Tacksmen. He found himself encountered by the same kind of combination as in Mull. The remedy he recommended was also the same, and the measures he took to break down an interested and ignorant opposition, were identical in both cases. With equal difficulty he at last persuaded some of the small Tenants to accept the security of Leases, and several of the larger Farms he re-let to gentlemen from the mainland, who came under the new reformed conditions.

The graphic and authentic picture thus drawn of the condition of a Hebridean Estate in the second quarter of the Eighteenth Century, is a picture of the whole of the Highland area, with such local modifications as were due to the comparative nearness of each district to the old centres of civilisation and of law. It is the picture of Celtic Feudalism dying hard. But it was dying—and it had been dying for a long time from causes with which the Jacobite rebellions had nothing whatever to do. In principle it was already dead when Culloden wrote, eight years before "The Forty-Five." Everything he says implies that nothing of it was left except a few traditions. Some of its worst evils had already been put an end to, even in the Hebrides, where it had attained its most rank development. The ferocious feuds and fightings of

the Clans had ceased for more than a hundred years. Reiving and thieving had not been ended, for this was carried on systematically to a somewhat later period, and was still indeed the habitual resource of the Clans wherever they were in proximity to richer lands which could be plundered. But the same resource was not open to the poor people of the distant Hebrides. Nothing of the Clan system remained to them except the old power of unlimited exactions, in the hands of Tacksmen who had come to represent the Chiefs and Chieftains of other days. In the ages of intertribal war and plunder this power had its compensations, of a kind, to those who lived under it. But in the dawning age of peace and industry, it was a practice of the Clan system which presented an insuperable obstacle to progress. The transformation of this power for evil into a power for good, had been the great work of reformation all over Scotland. For this purpose nothing was required except to carry back the power to the only legal foundation on which it had ever rested, namely, the power of Ownership, and so to evoke the higher motives which must inevitably give to it a wise direction. Accordingly, nothing is more remarkable in the Report of Culloden, as it had been in the Report of the Sheriff, than the undoubting certainty with which he assumed, and everybody else assumed, that, even in those distant centres of Celtic Feudalism, the Proprietors of the land had the fullest right to let it to all comers. Without this right, Culloden could have done nothing and advised nothing. If the Occupiers could have insisted on remaining, they could have insisted on continuing all the barbarous customs to which they were ignorantly but passionately attached. To this day they might have been living on crops of which one-tenth was corn and nine-tenths were weeds. They might have been pulling them up by the roots, consuming all the valuable straw, and damaging by fire the little residue of grain. The improvement of the country would certainly have been postponed

for generations. Those only who know the desperate and almost superstitious tenacity with which they clung, and in some places do even now cling, to customs and usages of the most injurious kind, can estimate what the West Highlands would have been if, in the last century, they had been separated in law, as they had long been separated in lawlessness, from the redeeming agencies at work in the hands of Ownership for the improvement and civilisation of the Scottish Kingdom.

On one point I have repeated the language of Culloden almost with a feeling of compunction. His Report is expressed with great severity as respects the conduct and the habits of a class which was then, and had long been, one of the most essential elements of society in the Highlands—the class of gentlemen Tenants who held farms under Leases or Tacks from the Proprietor. The remnants of this class survived down to our own times. I have a personal recollection of some of them, all of whom were excellent, and some of them even distinguished, men. Not a few were old soldiers, and many were descendants from collateral branches of the family of their Chief. None of them were Farmers in the modern sense of the word, although some of them acquired a taste for, and knowledge of, the breeding of cattle, by which they made an adequate profit and lived mainly on the produce of the farm. Beyond this, and perhaps the making of some fences, very few of them were agricultural improvers, and I know of no case in which any great step was taken by men of this class in introducing into the Highlands those reforms in the cultivation of land of which the country stood so much in need. On the other hand, all those whom I have known or heard of as belonging to this class, were gentlemen in the best meaning of the term—men incapable of a dishonourable action, and disposed to deal as justly and humanely with their inferiors as was consistent with the standard of obligation univer-



sally recognised in their day and generation. It is possible that Culloden, though himself a Highlander, may not have kept fully in mind what that standard of obligation was in the remoter parts of the country where the progress of law and of legally defined rights had not yet broken down the vague customs and usages which had come down to them through many generations. It is well, however, that the glamour which fiction and romance have cast around these usages should be dispelled by the broad daylight of Culloden's evidence, and that the incompatibility of those customs with the first elements of our modern civilisation should be seen now as it was seen, not after, but before the "Forty-Five," by a great Lawyer and a great Statesman, brought into personal contact with the whole conditions of society which had been moulded by them.

Culloden does not explain the nature of the "services" or "exactions" which were imposed on the Subtenants by the Tacksmen or Leaseholders. But this omission can be supplied from other sources. They were doubtless the same as those usually paid to Proprietors where there were no Tacksmen, or where such Proprietors were of the smaller class, living on the spot as the Tacksmen did. They are to be found given in detail in a very instructive paper, drawn up in 1795 by Sir John Sinclair, for the Board of Agriculture. That paper refers especially to the northern counties of Cromarty, Ross, Sutherland, and Caithness, with the Islands of Orkney and Shetland. But the same customs prevailed everywhere in the Highlands, and, indeed, at a still older date, over the whole British Islands. Specie or money being very rare, the rents of the small Tenants were principally paid in grain—that is, in Bear or Oats. "In addition to the rent," says Sir John, "the Tenants of that description were bound to pay the following services, namely, tilling, dunging, sowing, and harrowing a part of an extensive farm in the Proprietor's (or Tacksman's) posses-

sion, providing a certain quantity of peats for his fuel, thatching a part of his houses, furnishing straw-ropes, or ropes of heath for that purpose, and for securing his corn in the barnyard, weeding the land, leading a certain quantity of turf from the common for manuring, mowing, making, and ingathering the hay, the spontaneous produce of the meadow and marshy ground, cutting down, harvesting, threshing out, manufacturing, and carrying to market or seaport a part of the produce of the farm." Besides these services, the Tenants paid in kind the following articles under the name of customs, namely, straw bags, ropes made of hair for drawing the plough, reeds used for similar purposes, tethers, which, being fixed in the ground by a peg or small stake, and the cattle tied to them, prevented them from wandering over the open country, straw for thatching, etc. The Tenants also, according to the extent of their possessions, kept a certain number of cattle during the winter season—paid vicarage on the smaller tythes; as of lamb, wool, etc., a certain number of fowls and eggs, veal, kid, butter, and cheese; and on the sea-coast the tythe of their fish and oil, besides assisting in carrying sea-ware for manure. Sometimes, also, a certain quantity of lint was spun for the lady of the house, and a certain quantity of woollen yarn annually exacted. Sir J. Sinclair tells us that such were the "services" "which almost universally prevailed" in the county of Caithness, so late as thirty or forty years before he wrote—that is, so late as (say) 1760, or twenty-four years later than the Report of Culloden.<sup>1</sup>

It is needless to say that payments and services so numerous, so various, and so indefinite in amount, might be so worked, and, indeed, could not fail to be so worked as to leave the small Tenant no certain time for the cultivation of his own land on any improved system.

<sup>1</sup> *Agricultural Reports, Scotland*, vol. iv., part iv., County Caithness.

Now, it is important to observe, that most of these services and exactions, even when due, never could have been actually imposed by the great Landowners, because they had no farms in their own hands scattered all over the country upon which alone such labour could be of any value. But the smaller Proprietors could, and did, exact them, at least near their own residences; and when Tacksmen were allowed to sub-let without restrictions, these services must have become widely oppressive and destructive to industry.

The reform, therefore, which consisted in the double operation of letting farms directly to those who had been Subtenants, and of limiting or abolishing the power of imposing services in the hands of individual Tacksmen, was a reform of the first order of importance.

As I am in possession of some of the Leases which were granted nineteen and twenty years later by Archibald, third Duke of Argyll, I am able to explain the general nature of the further steps then taken in pursuance of the same principles. This is an interval which overleaps the famous "Forty-Five," and at the end of it we find nothing but the quiet, continuous progress of a change which had been commenced before. As the Lord President Forbes was quite as intimate a friend of this Duke as he had been of his more illustrious brother, it is probable that Duke Archibald's Leases embodied the latest recommendations of Culloden. In the first place, the "Tacks" or Leases given in, and subsequent to, 1755, to the larger class of Tenants, that is, to the old class of Tacksmen, prohibited all sub-letting upon "precarious tenures," that is, tenures at Will, with dues as uncertain as the tenure. In the second place, the smaller Leaseholder himself, although still bound to perform for the Proprietor certain services as part of his rent, had these services not only strictly defined and limited, but also made redeemable at a fixed and specified rate of commu-



tation. So many days' service each year—twelve or twenty-four days—was the usual stipulation, and it is a curious illustration of the enormous change in the value of labour, as well as in the value of money, that one day's labour was commutable at the rate of one penny, so that twelve days' service in the year was redeemable by the addition of one shilling sterling to the rent. It was, moreover, a special part of the stipulation that the labour or service could not be exacted either at seed-time or at harvest. In this modified form, the rendering of a certain fixed amount of service or of day's labour each year has been a stipulation surviving in some cases down to the present day.

Between the Report of Culloden and the potato failure and consequent famine of 1846-7, I am in possession of a continuous series of documents showing the progress of affairs in the Island of Tyree. They prove in the greatest detail that every single step towards improvement which has been taken during the last 150 years has been taken by the Proprietor, and not by the people. Not only so, but every one of these steps, without exception, has been taken against the prevailing opinions and feelings of the people at the time. "All in this farm very poor, and against any change"—such is the description repeated over and over again in a detailed Report on each Farm sent to my grandfather, John, sixth Duke, in 1803, when he was contemplating certain changes to which I shall afterwards refer. Great poverty and great ignorance are always "against any change." They are invariably associated with a languor of mind which is incompatible with the possibility of improvement. The very desire of better things is absent, and even if the desire existed the means would still be wanting. Under such conditions every reform must begin outside the people, and absolutely requires to be pressed upon them. I am not speaking merely of the outlays of money, which

come from capital. I am speaking of those exercises of mind—of foresight, and of authority—which come from Ownership, and cannot be enforced without the possession of its fullest rights. The abolition of the Run-rig system was always most unpopular in the Highlands. In Tyree, as elsewhere, it was abolished, and could only be abolished by the authority of Ownership. Again—illicit distillation, with the worse than waste of an immense quantity of grain,—was another inveterate habit, suppressed with the greatest difficulty by the same power. Every subsequent measure of improvement—the regular division of individual holdings—the fencing of them—the selection of the best candidates for the occupation of them—the prohibition of cultivation on land liable to destructive sand-blowing—the building of a better class of houses—the introduction of ploughs in substitution for the primitive “crooked spade”—the introduction of carts—of grain of a better kind—of superior stock—of dairy farming; in short, every single item of progress in agriculture has been the work, and often the arduous and expensive work, of the Proprietor. Moreover, even all these would have been useless without the arrest laid upon reckless sub-division, and the steady progress made towards the establishment of more adequate and comfortable possessions.

The legislative measures which followed the suppression of the Rebellion of 1745—the disarming of the people, and the prohibition of the native dress,<sup>1</sup> except as a uniform in the Forces of the Crown—were blows struck at Celtic Feudalism with a special view to extinguish its political danger, along with its spirit and its military power. These measures were needless, and if they had stood alone, would probably have had nothing but a bad effect. Causes, however, far deeper seated than any legislative measures of this kind, had long been operating in the right direction, and these had already almost

<sup>1</sup> 20 Geo. II. cap. 51.

completed what no mere statute could effect. There was, however, one Act of Parliament passed at this time which marks the consummation of a great change, and which raised a hot discussion closely connected with the subject of the present work. This was the abolition of the Heritable Jurisdictions. Accidental events had given this question an importance which it did not really possess. The Rebellion of 1745 had made a deep impression on the public mind both in England and in the Lowlands of Scotland. Englishmen had seen a Highland army invading their country, and marching in triumph through Preston and Manchester as far south as Derby. London for a time had been in a state of panic. Scotsmen had seen their Capital taken, and a Popish Pretender holding his court at Holyrood. Both England and Scotland could not but take serious note of the fact that the Jacobite forces had twice defeated the Royal army in pitched battles in the open field—first, on the 20th September 1745 at Prestonpans, near Edinburgh, where Sir John Cope was badly beaten, with the loss of his artillery and stores; a second time at Falkirk on the 17th January 1746, where General Hawley was routed not less completely. And this was the second of these Jacobite Rebellions within 30 years. The victory at Culloden, therefore, although it seemed to be for the time complete, did not, and could not set men's minds at rest. They were disposed to look with anger and alarm into the causes and the system which enabled a few great Nobles to raise armies of ten and twelve thousand men, and at such frequent intervals, to contend on almost equal terms with the armies of the Kingdom. In this state of mind they confounded together, as men are very apt to do under such conditions, two, or more than two, very different things. They confounded, amongst others, the power of Clanship or of Chiefship with the power of Heritable Jurisdictions. In this they were not only completely mistaken, but altogether wide of



the truth. The power of the Chiefs of Clans was wholly independent of Charters or of Law. The Heritable Jurisdictions, on the contrary, were entirely founded on Charters and on Law. They were grants by the Crown of Judicial power given to individual men, not because they were Chiefs of Clans, but because they were the chartered Owners of great territorial Estates. These powers were given to Ownership, and not to "Chiefery." Many of the most powerful Rebels were men who had no Heritable Jurisdiction; many of the great Land-owners who did possess extensive legal Jurisdictions, were the most loyal and the most energetic supporters of the Government. On the other hand, not a few Rebel Lords who had chartered Jurisdictions found in them no help at all. The Parliament of Scotland had for centuries been attacking and denouncing the power of Chiefs; whilst, on the contrary, in the Treaty of Union with England in 1707, the Scottish Parliament had inserted two special articles<sup>1</sup> saving the Heritable Jurisdictions of the Barons, and the analogous privileges of Royal Burghs, as Chartered rights of Property.

When, therefore, the British Parliament in 1746 and 1747 came to consider what they were to do against Celtic Feudalism, they soon found that the Heritable Jurisdictions formed no part of it, and had nothing to do with the political dangers which had so alarmed the Kingdom. Yet feeling that these Jurisdictions were for other reasons open to objection, and had long been abolished in England, they followed the judicious course of taking the opinion of a learned, wise, and patriotic man—applying to his knowledge for the facts, and to his wisdom and patriotism for advice. In January and August 1746, the House of Lords, in two Orders, applied to the Court of Session in Scotland for a Report on the different kinds of Heritable Jurisdiction, and for the

<sup>1</sup> Articles xx. and xxi., *Act. Parl. Scot.*, vol. xi. Append. p. 204.

draft of such a Bill as they would recommend to the adoption of Parliament.<sup>1</sup> The Lord President of that Court was then the same Duncan Forbes of Culloden of whom we have seen so much acting in another character. His Report is dated January 9, 1747. Like everything he wrote it was clear, concise, and eminently judicial in its tone. He explained and defended the Heritable Jurisdictions in the light of the times in which they had been introduced. He recommended the abolition of them (with a few important reservations) in the light of the new conditions of society which had now arisen. "One of the principal causes," he says, "of lodging High Jurisdictions in powerful Families heretofore was the great difficulty the Government was under, of bringing offenders to justice, and executing the laws, when the country was yet uncivilised, and the necessity of committing that charge to such as were able to execute the same; and as that part of the United Kingdom commonly called the Highlands of Scotland has at all times been, and is at this day, in a state so unsettled, that offenders are not from thence easily amenable to justice, nor can Process of Law have free course through it, due care must be taken to bring that part of the country under subjection to the law, and to secure the Execution of Process of all kinds within it, before any hopes can be entertained of seeing a regular administration of Justice by the King's Courts and Judges there." Assuming, however, that the essential preliminary would be otherwise secured, he sent up to the Lords the draft of a Bill for the desired purpose, and on this draft the Act which abolished the Heritable Jurisdictions was drawn and passed in the same year.<sup>2</sup> To a very large extent it was a mere statutory acknowledgment of changes which had already been practically established. In the preamble to

<sup>1</sup> A most admirable precedent, which might perhaps still be followed with advantage on some occasions.

<sup>2</sup> 20 Geo. II. cap. 43.

the 17th clause the Act narrated as a matter of fact that Heritable Jurisdiction affecting the higher criminal offences, and the penalty of death, had "long been discontinued, or had fallen into disuse as to the exercise thereof." In general and sweeping terms all Heritable Jurisdictions, both civil and criminal, were now "abrogated, taken away, totally dissolved, and extinguished." They were resumed and re-annexed to their original source—the Crown.

And yet some valuable and significant reservations were made by subsequent clauses in accordance with the recommendation of the Lord President—in accordance, not less, with important usages at that time still in full activity, and with the traditional policy of the native Parliaments of Scotland. These reservations affected only the lower jurisdiction of the Baronial Courts, or, as they were called, the "Baron Baillie Courts," for the framing and enforcement of Estate regulations, and for the recovery of rents due by contract. The view taken by the Lord President of the Heritable Jurisdictions as a whole evidently was, that so far from having been one of the strengths of Celtic Feudalism, they had been, on the contrary, the only means by which that dangerous power could be restrained and resisted. They had been a strength in the hand of Ownership, for the defence and enforcement of legal obligation. But now the government of the Crown was in a condition to undertake this great duty over the whole Kingdom. The Lord President, however, had seen how much still remained to be done in the cause of civilisation which could be done by no other power whatever than the power of Ownership in the management of landed property. For centuries this power had been exercised to a large extent through the lower jurisdiction of the Baronial Courts, presided over by "Baillies," as representatives of the Proprietor or Lord. It was most desirable to retain an Institution which was



still in full working order, which had in it some strong popular elements of unbroken usage and tradition, and without which the progress of agricultural improvement might be seriously impeded.

In accordance, therefore, with the advice of the highest Court in Scotland, and of its distinguished President, the old Baronial Courts were allowed to retain a petty jurisdiction in civil cases affecting values up to Forty shillings, and in all cases whatever for the recovery of "rents, mails, and duties," arising out of Charters, Leases, or other Instruments under which land was occupied.<sup>1</sup> This Act, therefore, made no change in the general practice which had been long established of inserting a clause in all Leases of agricultural land, binding the Tenant to attend and to serve on the Courts of the Barony in which his Farm lay. This was not an onerous but an honourable service, analogous to that of serving as Jurymen in the King's Courts. It associated all the Tenants in the administration both of law and of equitable jurisdiction arising out of the most important relations of the society in which they lived. It was only very gradually that these Courts fell into desuetude. The clause providing for attendance upon them survived in Leases down to our own days. I have myself signed many Leases out of which this old clause had not yet dropped. The changes which gradually extinguished these Courts were many. The class of men who took Farms gradually changed. Farms, themselves, became more and more individual possessions—less and less associated with that uniformity of customs and of habits which always dies under an active spirit of improvement. Then, the King's Courts, the Sheriffs, and the Sheriff-Substitutes, penetrated everywhere, and the inevitable tendency of reforms of every kind was to concentrate all Jurisdiction in the highest and most responsible administrators of justice and of law. But none the less were the

<sup>1</sup> Clause 17.

Baronial Courts a valuable institution during an important time, and their value lay especially in the facilities they lent to Ownership in rendering its full response to the appeal which had been made to it by Parliament and the Crown.

Belonging strictly to the same category of Legislation another Act of the same Session deserves our notice. Amid the fear and hatred roused by the Jacobite Rebellions against all that was supposed to be connected with Celtic Feudalism, another loud clamour arose against certain incidents of Feudal Tenure which had been developed in Scotland. These were the incidents affecting all Vassals or Feuars connected with Fines, Wardships, and other occasional dues to their "Superiors," which in Scotland were called "Casualties." Some of these were open to great objection—not as connected in the slightest degree with the power of Celtic Chiefs, but on the contrary as hampering and embarrassing the great antagonist power of landed Ownership. It was in the hands of the Vassals, and not of the Superiors, that the real powers and virtues of Ownership lay. It was the Vassals, not the Superiors, who possessed the "Dominium utile"—the dominion which incited men to the improved and more profitable use of land. It was a matter therefore of public interest that they should be able to exercise that power upon conditions which were known and calculable. Upon the narrative, accordingly, that certain specified kinds of Casualties "had been much more burdensome, grievous, and prejudicial to the Vassals, Proprietors of the Lands held by these Tenures, than they had been beneficial to the Superiors," an Act<sup>1</sup> was passed abolishing them for the future, and for the past requiring them to be commuted into a fixed feu-duty, either by agreement between the parties, or by valuation through the Court of Session.

We cannot be mistaken in seeing here the

<sup>1</sup> 20 Geo. II. cap. 50.

handiwork of the same enlightened Judge and Statesman who drafted the Act abolishing the Heritable Jurisdictions, when we ascribe to him an important clause in this further Statute which extended to Agricultural Tenants under Lease the same principle of certainty in obligations which the other clauses secured for the Proprietors under whom they held. This clause<sup>1</sup> was in strict accordance with the principle he had embodied in the new Leases which he had drawn up for the Tenants on the Argyll Estates. It did not abolish Services as a part, or as a concomitant, of rent. He knew that some of them were reasonable and even necessary. Neither did it assume to Parliament the task of specifying the particular services it might be expedient to retain. He knew that local circumstances and mutual interests must determine this. But it did abolish, and render illegal for the future, all Services which were indefinite and unrestricted in nature and amount. The Tenant and the Proprietor might bargain for such Services as they pleased; but these Services must be named, and specified. Uncertainty—vagueness—the want of definition had been the ruin and oppression of the cultivating classes under Celtic Feudalism. The Lord President struck at this feature of the system, and extended by law to those classes that same remedial principle to which a wider range had been just given on behalf of chartered Ownership. And so the new clause declared that no Tenant or Tacksman should in future be obliged or liable to perform any Services whatsoever other than such as shall be expressly and particularly reserved and specified, with the number and kinds thereof enumerated in some written Instrument, signed by both the parties thereto — “any former Law or usage notwithstanding.”

This was indeed wise and sound Legislation, and

<sup>1</sup> Clause 21.



it was only another item in the Response of Ownership to the long-standing appeals of the old Parliaments of Scotland. For it is to be observed that these new Statutes were passed in the united or British Parliament, forty years after the Union, in special consultation with the highest Court of Law in Scotland, and with the full assent of the Scottish Peerage and of the Scottish Proprietors. It is indeed curious to observe that although the privilege of recording Protests by minorities in the House of Lords was exercised on the passing of the Bill for the abolition of the Heritable Jurisdictions, that Protest was not signed by a single Scotch Peer. It was signed by only six Peers—all of them Englishmen. It is true that the Chartered Proprietors of the Heritable Jurisdiction were to receive a compensation. But the amount of this compensation was left absolutely to the decision in each case of the Court of Session—and this was made a point of objection by the Protesting Englishmen.

And now, disembarrassed on the one hand of powers which had outlived their time, and emancipated on the other hand, from liabilities which discouraged the use of capital, the Ownership of Land in Scotland was ready to go forward faster, and with redoubled energy, on a career which indeed was by no means new, but which was now to be pursued under more favourable conditions and with an immense development of industrial results.

Before, however, we can enter upon a review of these results, we must go back for a little upon the Past, and estimate from authentic sources of information what the condition of Scotland was in the beginning of the second half of the Eighteenth Century, as well as attend to some events which arose during that period, and which exerted an influence upon the people more powerful than either new laws or ancient usages.

## CHAPTER VII.

### BEFORE THE DAWN.

VERY nearly a century and a half—144 years—had now elapsed since the Union of the Crowns, and the condition of Scotland, as compared with its condition at that time, presented at least one curious parallel, and one not less striking contrast. In 1603 the Cateran of the Highland Glens was the fellow and the counterpart of the Moss Trooper of the Border Dales. Both were the children of the Clan system—the product of its degeneration and decay. The men who swarmed from the Hills falling into the sources of the Leven, the Earn, the Tay, the Dee, the Spey, and the Beaully Firth, led substantially the same life as those who mustered in the wider valleys or on the gentler slopes which shed their waters into the Solway and the Tweed. The Scoto-Saxon and the Celtic Clans were then in the same stage of progress. The habits of both races had been equally uncivilised and destructive. But now the armed horseman of the Border had not only disappeared, but had been long almost forgotten. When one only of these facts absorbed attention, and when the other had fallen out of mind—when the Cateran was still a terror, and the Moss Trooper had become a mere tradition—it was only natural that the causes which had been common to both should be popularly confounded and confused. Only the calmer spirits, trained in the knowledge of History and of Law, appreciated those causes, and perceived the remedies which could alone prevail over them, in the one case, as they had already pre-

vailed over them, in the other. But in the midst of the anger which swelled around the last Jacobite Rebellion, there were some writers of the time who saw clearly that as regarded the dangers of Clanship the new Statutes of 1747 could only have an indirect effect. One of these writers pointed out that in all the Border Counties Clanship had once been as powerful and as destructive to industry as it still appeared to be in any part of the Celtic Highlands. He urged that after the Union of the Crowns, without any meddling with the Heritable Jurisdictions of the great Landowners of the Lowlands, and without any modification of the Feudal "casualties," those evils of Clanship had been eradicated in the Southern Highlands so completely "that civility, good order, and industry supervened among them, and Clanship wore off by degrees, and at last totally ceased, so that no such thing has been known in those parts within the memory of man."<sup>1</sup>

Although this phrase, "the memory of man," has not a meaning which is precise, yet it has a meaning which is of measurable scope. It must indicate a period of more than a century, seeing that every generation has inherited the memory of its fathers for at least that period of time. This, then, would take us back to 1647, since which it was asserted as a matter of notoriety that no memory remained of the Border Clans—a date only forty-four years after the Union of the Crowns. Within that short period, then, representing little more than a single generation, the whole system must have been broken up, extinguished, and almost forgotten. How had this great change been so speedily effected? Of the universal prevalence of Clanship in the Southern Counties of Scotland up to the Union, and of all the worst habits of life inseparable from it, there can be no doubt whatever.

<sup>1</sup> *An Essay upon Feudal Holdings, etc., in Scotland* (anonymous). London, 1747. One of a collection of pamphlets of this date.



We have the detailed evidence of the Parliament of Scotland in 1587, only sixteen years before, and of many a Tale and Ballad which illustrates that evidence in forms more picturesque and equally authentic. Sir Walter Scott, the latest and most illustrious Minstrel of the Borders, who himself belonged to one of the most powerful of the Southern Clans, has said of his native districts that "for a long series of centuries the hands of rapine were never folded in inactivity, nor the sword of violence returned to its scabbard."<sup>1</sup> The truth is, that his account represents a condition of society more permanently bad than had prevailed in any portion of the Highlands. All down the Eastern Coasts of Scotland, indeed, there had always been a broad belt of low country which was the seat of industry and of peace. But the whole area embraced by the Middle and the Western Marches had been nothing but the strongholds of fighting and marauding Clans. Scott tells us that until after the Union, land in those regions had hardly ever been sufficiently cultivated to afford any rent at all. In one respect only had an advance been made beyond the northern portions of the Kingdom. The great Landowners of the Southern Counties had long ago discovered that sheep could graze upon their mountains as well as cattle upon the lower grounds; and it is recorded of James v. that he had a flock of 10,000 of these animals in the Forest of Ettrick alone. But the bulk of the people raised no crops sufficient to feed themselves, far less to afford a surplus for the purposes of exchange. Yet, as there was a large population, it lived, and could only live on the plunder of its neighbours.

This is the only explanation—and even this is hardly sufficient—of the formidable levies which the Border Chiefs seem always to have been able to command in frays, forays, and sometimes in audacious enterprises against the Crown. Not seldom

<sup>1</sup> *Border Minstrelsy*. Preface by Sir W. Scott (ed. 1802), p. 48.

these levies were made so suddenly and so secretly, that the power of collecting them indicates an abundance of population far greater than the produce of their own country could habitually sustain. James VI. himself, with all his Parliament, had suddenly found himself, when a boy, in the hands of the "Bold Buccleuch," who in the year 1571 made a dash at Stirling with 300 infantry and 200 horsemen.<sup>1</sup> But this was a mere squadron of the great force which could be called forth when occasion required a real "Summoning of the Array." We are told that "at the blaze of their beacon-fires the Borderers could assemble 10,000 horsemen in the course of a single day."<sup>2</sup> How came such long ancestral habits to be so suddenly exchanged for others? How came this great military population to be disposed of in favour of the ploughman and the farmer? It had to be done,—for the old life could be led no longer. He whom the Borderers had called in contempt the King of Fife and of the Lothians, had become King of Great Britain and Ireland. The "Marches" and the "Borders" had disappeared, and now there was only one United Kingdom, with a strong Government surrounding on all sides the Southern Clans.

There were but two ways of meeting such a complete revolution in the facts of life. One remedy was sudden and temporary, but was a necessary preliminary to another remedy which would be gradual and permanent. That portion of the population which could not adapt itself to the new life—and this was a large portion—must go elsewhere. The other remedy—that which must be more slow and more gradual—would spring up of itself, out of the new motives which were inseparable from the new conditions. All other "measures" must be weak or futile. Such measures, however, were tried; for men are slow to recognise or understand what the real influences are which the human

<sup>1</sup> *Border Minstrelsy*, Preface, p. 37.

<sup>2</sup> *Ibid.* p. 69.

Will steadily obeys. Legislative measures similar to those which were tried against the Highlanders in 1747, prohibiting their dress, and the carrying of their arms, had been tried against the Borderers—with this difference only, that as their accoutrements and equipments were different, the things aimed at were not the same. For the most part, the Border Clans were horsemen, and not foot soldiers. With wonderful ingenuity they had trained their horses to go upon morasses by throwing themselves down on their bellies and their houghs, and thus gaining an artificial breadth of support, to cross, by short floundering leaps, ground in which ordinary horses were instantly bogged. Accordingly, one of the measures aimed against the Borderers was a prohibition against the possession of horses above the size of ponies. But the real remedies were begun when the native Chiefs and Landowners recruited a Legion of men who, having known no other life than fighting, were incapable of industry, and were glad to offer the service of their lances to countries which were as glad to have them. This Legion repaired to Holland, and was absorbed in the wars of the Low Country.<sup>1</sup> One whole Clan of Græmes, specially intractable, were deported to Ireland, where they did, and where their descendants are now doubtless doing, well.<sup>2</sup>

But the great remedy—the permanent remedy—was the immediate opening up of the ordinary channels of peaceful industry. This was the final and irresistible response to the old appeal from the power of Chiefs to the power of Ownership. The effect was immediate,—such as might be produced by the sudden rising of a new atmosphere, and of a new climate upon the vegetation of the world. The proper seeds were all there—for these are everywhere stored in the nature of Man, and in the nature of his more civilised desires. From the moment peace and security were established, Land-

<sup>1</sup> *Border Minstrelsy*, Preface, p. 49

<sup>2</sup> *Ibid.*



owners began to value their estates as they had never valued them before. They now valued them not for the precipitous ravines,—the impenetrable thickets,—the treacherous morasses,—on the edges of which they could build castles, or in which they could hide cattle, or behind which they could retreat from a pursuing enemy. They valued them for the corn they could produce, and for the share of it which was due to those to whom the cultivator owed his tenure,—this being his only right of exclusive occupation. So immediate was this effect that within three or four years of the Union proprietors began to look closely over their own private “marches,” and to claim from each other portions of territory which, before, it had been rather a burden to defend.<sup>1</sup> This was all that was required. No special legislation was needed. Old motives had been killed. New motives had taken possession of Society. There must have been a great exodus from the Dales of the old fighting classes. And more important still, after this exodus had been accomplished, there was a free current of migration to and from the surrounding districts of the oldest Scottish civilisation. There was no barrier of race. There was no barrier of language. The population came and went as agriculture gradually developed, and as the mutual interests of men led them to bargain with each other for what each could give towards the profitable occupation and cultivation of the soil. Within less than half a century, as we have seen, the Moss Trooper cavalry had been forgotten, and the grazier and the farmer reigned in their stead.<sup>2</sup>

And now let us turn from the parallel to the contrast. The Union of the Crowns was a great epoch in the Celtic Highlands, as well as in the Marches of the Border. It closed almost completely

<sup>1</sup> *Border Minstrelsy*, Preface, p. 44.

<sup>2</sup> Statutes against Moss Troopers on the Border continued to be passed down to a much later date. But the old name had come to be attached to mere robbers and banditti.

the ages of internal war. One of the last ferocious battles of the Clans, the famous and bloody fight between the Macgregors and Colquhouns in Glen Fruin, was fought in 1603. Thenceforward bloodshed had nearly ceased. But there was no exodus from the Highlands of the fighting classes as there was from the Borders, neither was there any continuous outflow and inflow between the Celtic and the Scottish populations, to and from their respective districts, like to that which had arisen on the Borders. More impassable than the mountain barriers, there still remained between the Highlanders and the Lowlanders the antipathies of race, and the differences of language. From all this the fact arose that the Highland Caterans lived on and multiplied in their glens, leading to a very large extent, as they could only lead, a life of plunder. Instead of becoming a thing of the past within little more than a single generation, as the Clans of the Border had become, they continued, on the contrary, to be a living and a very terrible reality for more than a century and a half. Although, during this time, there was little or no advance in agriculture, there was a cessation of deaths in battle, and it is certain that population within the Highland line was pressing more and more closely upon the limits of subsistence. It could not be otherwise. Many parts of Scotland which are now among the richest, were then miserably poor. Thirty years after the Union, in Charles the First's Parliament of 1633, a Bill was brought in providing "that all impositions for restraining the inbringing of victual may be discharged," and this was desired upon the ground that the "whole Sherifffdoms of Dumbarton, Renfrew, Argyll, Ayr, Wigtown, Nithsdale, Stewartry of Kirkcudbright, and Annandale are not able to entertain themselves in the most plentiful years that ever fell out without supply from foreign parts."<sup>1</sup>

<sup>1</sup> *Act. Parl. Scot.* vol. v. p. 49. My attention was called to this remarkable fact by the late Mr. Cosmo Innes.

If this was true at that time of comparatively fertile districts of the Lowland country, it must have been still more true of all the wilder portions of the Highlands. The land was a land capable of yielding adequate means of support, even to a limited number, only as a return to capital, industry, and skill. The life was a life in which industry was impossible, and in which both capital and agricultural skill were unattainable and unknown. Accordingly one eminent authority has said of the old inhabitants of the Highlands that "they were always on the verge of famine, and every few years suffering the horrors of actual starvation."<sup>1</sup>

It is curious how completely this fact is now forgotten or ignored. In part this forgetfulness arises out of one of the most blessed laws of nature—that the memory of pain is transient, whilst the memories of pleasure are enduring. Especially would this be true of a highly imaginative people, feeding on Legend, and having no literature of its own except the literature of Song. There is no poetic or inspiring element in the fight with Famine. Yet the moment we examine in detail the historical documents of greatest value, which are Family Papers and the records of Parliament, we find abundant evidence of the extreme poverty of Scotland and of her people. From century to century the same complaint is repeated, and generally in tones which imply not so much any sudden scarcity from adverse seasons, as a standing deficiency of food for the adequate support of the population. In the reign of James III., in 1476, this complaint is so worded as to declare expressly that Scotland was then dependent on the Foreigner for its living. "Because," says this Statute, "Victuals are right scant within the country, and the most supportation that the Realm has is by strangers of diverse nations that bring victuals."<sup>2</sup>

<sup>1</sup> *Sketches of Early Scotch History*, p. 434. By Cosmo Innes.

<sup>2</sup> 18 James III. c. 5; *Act. Parl. Scot.*, vol. ii. p. 118.



Five years later, in 1483, the continued pressure of this condition of things opened the eyes of the Legislature to a truth as affecting the Foreign Importer, to which they continued curiously blind as affecting equally the Home Producer,—the truth, namely, that any attempt to regulate the price of imported victuals by law could only do harm, by driving away the Foreigner on whom so much depended. An Act of that year therefore provided that in order to induce Foreigners to come for the benefit of the King's lieges, they should enjoy the benefit of free bargains, and that "no price be set upon their goods, except by buying and selling with their own consent."<sup>1</sup> The span of a single human life had not yet elapsed, when Parliament returned to the subject in a yet more serious mood. It had in the meantime been doing its best to discourage production by arbitrary limitations on price. But now it did more in the same direction by putting arbitrary limits on consumption. Industry is sometimes recouped for a small price, by extensive custom. But this, too, was to be checked. The nation had recourse to a Sumptuary Law. It treated itself as if it were a ship at sea, with only a limited store of food which could not be increased, but which might be made to serve longer by everybody on board being put on rations. The idea was embodied in a law with grotesque inconsistencies. It denounced excess in eating as "voluptuosity." But it did not put all men on equal fare. It established a scale corresponding to men's rank in life. The consequence was, the highest Ministers of the Christian Church were put highest on the scale of eating, and therefore lowest on the scale of self-denial. Archbishops, Bishops, and the highest ranks of the Peerage were allowed a maximum of eight dishes, whilst the scale descended, through the various degrees of station and wealth, to a maximum of three. To avoid eva-

<sup>1</sup> 22 James III. c. 10; *Act. Parl. Scot.*, vol. ii. p. 144.

sion it was specified that each "dish" must contain "one kind of meat" only.<sup>1</sup> Illogical and childish as this Statute must appear to us now, I am not sure that it is more childish than many theories prevalent in our own time upon the subject of "luxury." There is no rational, or indeed intelligible definition of this word which does not include within its meaning all that exceeds the bare necessities of life. The food of a convict—the apparel of a convict—the lodging of a convict—is the standard with which we must begin. All the comforts and conveniences of life—all that refines and elevates the course and the enjoyment of it—belongs to the class of luxuries, and the Industries which are employed in the production of them are the profitable employments of the people. These Industries cannot be separated from the consumption of their products. "Voluptuosity" must be marked off by a higher and more spiritual touch than the coarse one of Parliamentary enactments, or even of intellectual definitions. The characteristics of it can only be recognised by those moral faculties which establish contact between the Individual, with all his specialities of circumstance, and the duty he owes to the Giver of every good and every perfect gift. We enter here, however, upon other fields of discussion, from which we must retire again.

The interest of this Statute for our present purpose lies in its remarkable preamble: "Having respect to the great and exorbitant dearth risen in this Realm of victuals and other stuff for the sustentation of mankind, and daily increasing." It is a common but erroneous notion that the Highlanders, like the inhabitants of other wild countries, had at least always an abundant supply of game. But neither was this source extensively available. The country swarmed with Foxes, Eagles, Hawks, and, at an earlier period, as

<sup>1</sup> *Act. Parl. Scot.*, 1551, vol. ii. p. 488. Of course, "meat" meant all kinds of food, and not animal food exclusively.

we have seen, with Wolves. These animals effectually prevented any abundance of game. Even the Deer being often wholly unprotected, killed out of season, driven about and allowed no rest, were reduced extremely in number, and in the Seventeenth Century were found only in the highest and least accessible mountains of the country.<sup>1</sup> When we remember that this language was used by men living in the richest portions of the country, in or near which there was free access to the Foreign Merchant, we can form some idea of the much greater dearth which must have prevailed elsewhere. These repeated Statutes during several centuries indicate beyond all doubt the great poverty of the nation, and the deep distress which must have been frequent, if not habitual, among the poorer classes, in districts where no imports could ever penetrate.

This state of things is not astonishing. The only matter of astonishment is how any considerable population could have lived at all. Let us remember, in the first place, that the food which now for several generations has been the principal food of all poor agricultural populations, was not then available. There were no potatoes. Let us remember, in the second place, that the climate is a wet one, and that artificial drainage was absolutely unknown. Let us remember, in the third place, that although potatoes will grow on damp and even wet soils, barley and oats will not grow except on land which is comparatively dry. Let us remember, in the fourth place, that in a mountainous country, with a wet climate and no artificial drainage, the best land in the bottoms of the valleys must have been very wet, and that even the sides of the hills were often covered with a boggy and spongy soil. It follows from all these considerations that corn could only be raised on those spots and portions of land which were dry by natural drainage. Sometimes these may have been

<sup>1</sup> *Sketches of Early Scotch History*, p. 424, by C. Innes.



in the bottoms of the valleys where the soil happened to be light and shingly, but more often they were on the steepest sides of the hills, on the banks of streams, and among the naturally dry and even stony knolls. Accordingly nothing is more common in the Highlands than to see old marks of cultivation upon land so high and so steep, that no farmer in his senses would now consider it as arable at all. When these marks catch the eye of the stranger, full of sentiment, but deficient in knowledge, he looks upon them, and quotes them as the melancholy proofs of ancient and abandoned industry, of the decay of agriculture, in short of a stagnant or declining state. Whereas, in truth, these are the most sure and certain indications of the low and rude condition of agriculture in former times. They prove that the better lands which are now drained and cleared and ploughed, must have been then under swamp and tangled wood. When again we remember that such dry spots and patches of land as were then capable of bearing corn, were used for that purpose year after year; when we remember that there was no such a thing known as a rotation of crops, since all the green varieties were wanting; when we consider further, that even the rudiments of a system of manuring land were also unknown, it is impossible to be surprised that the population of the Highlands was exposed to frequent and severe famines, and we may well even wonder how any considerable population was maintained at all.

Sir Walter Scott, in one of the most powerful of his immortal Tales, the novel of *Rob Roy*, has put into the mouth of Bailie Jarvie an accurate description of the over-population of the Highlands, as compared with the actual resources of the country in the time of that noted Cateran, who is the hero of the story: "The military array of this Hieland country, were a' the men-folk between aughteen and fifty-six brought out that could bear arms,

couldna come weel short of fifty-seven thousand and five hundred men. Now, sir, it's a sad and awfu' truth, that there is neither wark, nor the very fashion nor appearance of wark, for the tae half of thae puir creatures; that is to say, that the agriculture, the pasturage, the fisheries, and every species of honest industry about the country, cannot employ the one moiety of the population, let them work as lazily as they like, and they do work as if a pleugh or a spade burned their fingers. Aweel, sir, this moiety of unemployed bodies amounting to one hundred and fifteen thousand souls, whereof there may be twenty-eight thousand seven hundred able-bodied gillies fit to bear arms, and that do bear arms, and will touch or look at nae honest means of livelihood even if they could get it—which, lack-a-day! they cannot. . . . And mair especially mony hundreds o' them come down to the borders of the low country, where there's gear to grip, and live by stealing, reiving, lifting cows, and the like depredations—a thing deplorable in ony Christian country, the mair especially that they take a pride in it,"<sup>1</sup> etc. In this passage Scott did not speak at random. In an article contributed to the *Quarterly Review* in January 1816,<sup>2</sup> we have his picture of the historical facts embodied in *Rob Roy*. In that paper he pointed out that the most remarkable fact connected with the Highlands about a hundred years before he wrote, was the rapid increase of the population, which, pent up within narrow and unfertile valleys, could neither extend itself towards the mountains, on account of hostile Clans, nor towards the Lowlands, because the civilised country, though unable to prevent occasional depredations, was always too powerful to admit of any permanent settlement being gained upon the plains by the mountaineers. But limited to its own valley, each Clan increased in numbers in a degree far beyond

<sup>1</sup> *Rob Roy*, p. 291 : 1870.

<sup>2</sup> Vol. xiv. pp. 283-333.

proportion to the means of supporting them. Each little farm was, by the tenant who cultivated it, divided and sub-divided among his children and grandchildren, until the number of human beings to be maintained far exceeded that for whom, by any mode of culture, the space of ground could supply even the poorest nourishment. In illustration of this general description, Sir Walter particularises the rugged district, now so well known to tourists, between Loch Katrine and Loch Lomond, in the neighbourhood of Inversnaid, where 150 families were living upon ground which did not pay £90 a year of rent, or in other words, where each family on an average rented land at twelve shillings a year as their sole source of livelihood.<sup>1</sup>

It is well to have this prosaic testimony to a memorable economic fact, not from any cold-blooded Statistician, but from the greatest Poet of History that has ever adorned the literature of any country. The only error that can be detected in this picture drawn by Sir Walter Scott is, that in some ways it is probably an under-statement rather than any over-statement of the case. The terrible and then increasing disproportion between the old Celtic population and their legitimate means of subsistence, is as powerfully as it is accurately expressed. But the contrast between these two quantities becomes all the more indicative of the extreme unproductiveness of the country, arising out of the ignorant agriculture and idleness of the people, when we discover that the actual amount of the population which was so poor, and which was driven to such expedients for support, was in all probability a much smaller amount than the figures indicated by Sir Walter. The fighting power exhibited in the short but dashing Rebellions of 1715 and of 1745 has led very generally to an estimate of the number of fighting men turned out by the Highlanders, which is almost certainly exaggerated. It

<sup>1</sup> *Quarterly Review*, vol. xiv. p. 296-7.



will surprise many to be told that the greatest number of men in arms against the Government in the Rebellion of 1745, from the beginning to the end of it, did not exceed 11,000 men.<sup>1</sup> In 1715 the Earl of Mar had entered Stirling with only 5000, and the doubling of his force at the Battle of Sheriffmuir was due to Irish reinforcements. Of course it is to be remembered that some of the most powerful Clans were loyal to the Government, so that the Rebel forces never represented the full power of the Highland population. Some of them remained neutral. Robert Macgregor, the famous "Rob Roy," hung upon the outskirts of this battle at Sheriffmuir with a contingent, which took no part in the engagement—its astute leader being a waiter on Providence and a watcher of the tide. This broad fact, however, remains undoubted, that although many great Nobles and Proprietors in the Lowlands joined in the Rebellion of 1745, the whole military force which supported the Pretender was entirely raised by the Highland Proprietors, although at least one-half the value of the whole Estates afterwards forfeited belonged to the Lowland Rebels.<sup>2</sup> The explanation of this is obvious. It was in the Highlands alone that a large surplus population survived over and above those whose time was occupied with any industrial pursuits, and over and above the number which could be supported by them. In the Lowlands the old military population had disappeared,—having been dispersed from their original seats, and absorbed into the ranks of peaceful industry,—some of them in the country, some of them in connection with the rising commerce of the Towns.

At last one outlet was opened for the Highlanders which had been opened for the Border Clans

<sup>1</sup> I take this from an interesting MS. in the *Brit. Mus.*, No. 104, in the "King's Collection," written by a gentleman who travelled over all the Highland Counties soon after the Rebellion of 1745, and seems to have been employed by the Government to report upon them.

<sup>2</sup> *Observations on the Highlands*, by the Earl of Selkirk, 1805, App. A.

more than a hundred years before—the outlet, namely, of lawful military service. It is constantly repeated that the idea of enlisting Highland Regiments was due to the genius of the elder Pitt, the Earl of Chatham, when he came into power in December 1756, and undertook the conduct of the war with France in America and in Europe. This, however, is a mistake. That great man has enough of glory without ascribing to him the merit of a suggestion which unquestionably came from two native Scotchmen, who were also native Highlanders. There is conclusive evidence that the policy of enlisting Highlanders, as such, in the regular military service of the Crown, was due to the common counsels of these two intimate and hereditary friends, Archibald, third Duke of Argyll, better known as Earl of Islay,<sup>1</sup> and Duncan Forbes of Culloden. Indeed, a beginning had been made at a still earlier date. No less than twenty-seven years before the famous ministry of Pitt, this policy had been inaugurated, so far as regarded the purposes of a local Militia for keeping the peace of the Highlands, by the formation in 1730 of the six Independent Companies which, from the contrast of their dark clothing with the red uniform of the Army, came to be known as the Black Watch.<sup>2</sup> These six separate Companies, numbering in all 510 men, were constituted as closely as possible on the same system as that which had long been the system of the Clans. The officers were taken from the loyal Clans, the Campbells, Grants, Munros, etc., but the men were recruited from all Highlanders who would enlist. The “Broken Men” of the Highlands were as willing to join these Companies as they had always been to join any powerful Chief. These bodies of men were in the strictest

<sup>1</sup> He succeeded his brother John, Duke of Argyll and Greenwich, in 1743, and died in 1761. During the whole of the Ministry of Walpole, and some succeeding Ministries, he was intrusted with the chief conduct of affairs in Scotland.

<sup>2</sup> Stewart's *Sketches of the Highlanders*, vol. i. part iii., pp. 240-248.

sense of the word new Clans, formed precisely as any other Clan might have been begun, in the palmy days of Celtic Feudalism.<sup>1</sup> We know the actual constitution of at least one of the Jacobite Clans engaged in the Rebellion of 1745, and we see that essentially it was a mere military body with only the flavour of family or blood connection arising out of relationship between the officers. It was the contingent which represented the Stewarts of Appin. In this gallant corps, numbering upwards of 300 men, there were only six families who were genuine inheritors of the name and blood of Stewart. Of the killed and wounded in all the battles of the campaign, only 47 belonged to them, whilst 109 belonged to "Macs" of almost every sort and kind existing in the Highlands. Yet nothing could exceed the courage and fidelity of the men to their leaders. They contributed much to the defeat of Sir John Cope at Prestonpans, and to the rout of General Hawley at Falkirk. At Culloden they broke the Royal regiment opposed to them, until it was rallied behind supports.<sup>2</sup>

The Statesmen who in 1730 first enrolled the original Companies of the Black Watch upon exactly the same principle, must have been native Scotchmen, knowing intimately the habits of the people whom these companies were formed at once to watch, to employ, and to keep in order. Between 1730 and 1738 they seem to have exercised an excellent effect upon the Highlands, and it was perhaps due to them that the Rebellion of 1745 was not far more formidable even than it actually proved to be. In the last of these years—1738—the same year in which Culloden gave such wise advice for the agricultural settlement of the population on

<sup>1</sup> Col. Stewart says "their service seemed merely that of a Clan sanctioned by legal authority" (*Sketches*, vol. ii. p. 254).

<sup>2</sup> These interesting details are given by Mr. Gregory, editor of *De Rebus Albanicis*, and author of the *History of the Highlands*. They were derived from Charles Stewart (Fasnacloich), who was private secretary to Prince Charles Edward.



his friend's Hebridean estates,—he drew up a paper recommending an extension of the policy of enlisting Highlanders in the regular Army.<sup>1</sup> Through Lord Islay it was laid before Sir Robert Walpole, who approved and sanctioned the idea. Although this scheme was not immediately carried into effect on any great scale, yet a beginning was at once made, for it must have been in consequence of the advice of Islay and Culloden that in the following year, 1739, the Independent Companies of the Black Watch were formed into a Regiment—the famous “Forty-Second.”<sup>2</sup> The Letters of Service for the formation of this Regiment, dated October 25, 1739, directed that the corps should be “raised in the Highlands,” the men to be natives of that country, and none other to be taken.<sup>3</sup>

The steps by which this famous body of men passed from mere Companies, representing the Clan organisation, into regular Regiments of the British Army are curious, and some of them are painful. The original Companies were raised strictly for local service among the mountains. They were scattered over the Highlands, but principally stationed along the line of the Great Glen from which, on either side, they could keep their watch and maintain the law. When they were “regimented” the men did not clearly understand the change from local to general service, although the “Letters of Service” distinctly stated that the Regiment was to take its place in the Royal Army, “according to the establishment thereof.”<sup>4</sup> When it was marched to London in 1743, and Jacobite agents told them they might be sent to America, there was—not a mutiny—but a wholesale desertion. Following the frequent example of their ancestors, they retreated in a body from London, about May 16 in that year, and tried to regain

<sup>1</sup> *Culloden Papers*, Introd. p. 31.

<sup>2</sup> Originally, and for a few years, numbered the “Forty-Third.”

<sup>3</sup> *Stewart's Sketches*, vol. i. p. 244.

<sup>4</sup> *Ibid.*

the Highlands by marching through the centre of England. Surrounded and obliged to surrender their arms, when they had got as far as Oundle in Northamptonshire, they were soon restored to order, and transferred to Flanders to serve in the never-ending wars waged upon that great battlefield of Europe. There, during the two years 1743 and 1744, they won golden opinions by their civility, trustworthiness, and conduct; and there, in 1745, at the bloody and disastrous fight of Fontenoy, the Highlanders established their renown, first by their dash during the battle, and then by their discipline and courage at the most difficult and dangerous post of honour, that of covering the rear of an army in retreat.<sup>1</sup>

Not indeed even then for the first time had the soldiers of Scotland and of the Highlands become known to the Continental States. For many hundred years they had been honoured in France, and during the Seventeenth Century they had borne a distinguished part in the wars of the Low Country. In the great Civil War at home between Charles I. and the Parliamentary Forces, the Highlanders had been called on for a contingent, and the M'Leods of Skye, whose chiefs were zealous Royalists, had lost in the war, and especially at Worcester, so many men that, by the general consent of the Northern Clans, it was agreed that they should have a respite from military service till their numbers should increase.<sup>2</sup> Nevertheless the conduct of the Black Watch, as one of the regular Regiments of the British Army at Fontenoy, attracted the universal notice of the world. And this was still twelve years before the measure commonly ascribed to Pitt. So far, indeed, was he from having any merit in this matter, that so late as 1744 he was denouncing on principle any additions to a standing army, and declaring that "the man who solely depends upon arms for bread

<sup>1</sup> Stewart's *Sketches*, vol. ii. pp. 269-70; *Culloden Papers*, pp. 200-3.

<sup>2</sup> MSS. Brit. Mus.

can never be a good subject, especially in a free country.”<sup>1</sup> It is clear, therefore, that the honour of this measure is an honour to be ascribed to the Statesmen who were then at the head of affairs in Scotland. Moreover, in the legislation of 1747, the Act which forbade the use of the Highland dress, specially excepted that use as a regimental uniform. This clearly indicated not a temporary or accidental expedient, but a permanent policy. Accordingly the Forty-Second was employed on all kinds of service, both at home, in Ireland, and abroad, during the eleven years between the battle of Fontenoy and its embarkation for Canada in 1756. Not even the first idea of using Highlanders for the reinforcement of the Army in America can be justly ascribed to the initiative of Pitt. The Forty-Second had been under orders for Canada, and had actually embarked in 1748, when they were accidentally driven back by storms. But the Forty-Second formed part of the Force sent out under General Abercromby in 1756, and which landed at New York in June of that year.<sup>2</sup> The Ministry of Pitt was not formed till the following month of December, so that the policy of employing Highland Regiments in the struggle with France for supremacy in the New World, cannot possibly be ascribed to him.

The scheme of adding largely to the Highland element in the regular army by the addition of two new Regiments of 1200 men each, and of sending them out to America, seems to have been renewed by Archibald, Duke of Argyll, on the same principle of Clan enlistment which had been found so successful in the case of the Black Watch.<sup>3</sup> The only merit due to Pitt in this matter, was that when he came into power in December 1756, at a time marked by great national depression and

<sup>1</sup> Thackeray's *Life of Pitt*, vol. i. p. 127.

<sup>2</sup> Stewart's *Sketches*, vol. i. p. 294.

<sup>3</sup> Beatson's *Military and Naval Memoirs*, vol. ii. (ed. 1804), under date 1757.



disaster, having himself previously denounced the use of Hanoverian troops, he rose above all his former prejudices about "Standing Armies," and directed the immediate execution of the scheme. The truth is, that the defeat of Fontenoy and the Jacobite Rebellion happening in the same year, had put an end to the nonsense of political tradition on this subject. Pitt had now entered upon a great war, and he was almost driven by necessity, in January 1757, to resort still more largely to that recruiting ground of a fighting race in the Highlands, the value of which had been tested on the most famous fields of Europe, and had then already come to be universally recognised.<sup>1</sup> During the rest of the century, and during the next century down to the Battle of Waterloo in 1815, this recruiting ground was more and more largely drawn upon—so that between 1740 and 1815 no less than fifty Battalions had been raised mainly from the Highlands, irrespective of smaller corps, and many "Fencible" or Militia Regiments<sup>2</sup> besides.

The effects of this great opening of military service upon the population of the Highlands were very great, both directly and indirectly. The indirect effects cannot be measured by the mere diminution of numbers from the casualties of war. These were never excessive; indeed they may be said to have been trifling compared with those accompanying the murderous conflicts of our own day, in which arms of precision, and of enormous range, mow down men as the ears of corn fall before the reaping-knives. Fontenoy was reckoned a bloody battle at the time, and the severest fighting fell to the lot of the Black Watch; yet they lost in killed only 30 men, with 86 wounded. Fontenoy

<sup>1</sup> Mr. Lecky, one of the most careful and philosophical of our living historians, has recognised the "exaggeration" of the merit commonly ascribed to Pitt; but he still leaves to that Statesman more than is his due (*History of England*, vol. ii. p. 458).

<sup>2</sup> Stewart's *Sketches*, vol. ii. p. 293.

was described by an officer concerned in both actions as "nothing" to the disastrous fight against the French and Indians at Ticonderoga in 1758, when the Highlanders encountered the brave Montcalm,<sup>1</sup> and when their killed numbered 297, and the wounded 306. This was more than one-half the whole Regiment. During the remaining service of this splendid corps, from its embodiment in 1740 to the Peace of 1815—a period of seventy-five years—in all the wars in which it was engaged, in Flanders, Canada, America, the Peninsula, and Waterloo—its total losses in killed only came to 778 men (rank and file), and 2291 wounded. The proportion of officers killed and wounded was immensely greater.<sup>2</sup> At this rate of loss, taking even the whole of the Regiments which came to be recruited, chiefly but no longer exclusively, from the Highlands, the drain upon the population was not very heavy, and probably much less than would have arisen from such intertribal wars and devastations as those which marked the Fifteenth and Sixteenth Centuries.

But the indirect effect of the Highland Regiments was enormous. Men from every part of the Highlands became acquainted with other regions of the world—with higher standards and modes of living,—with other pursuits than breeding a few half-starved cattle, and raising a few bolls of poor Oats and Bear. They resumed that foremost rank in the military annals of their country which they had not held since the days of Bannockburn and Byland. In particular, they became familiar, during the war in Canada and in the American Colonies, with those "Plantations" which sounded so dreadful in the ears of the Forty-Second when they first heard of them, that the men rushed off in a panic to regain their hills. They had now the opportunity

<sup>1</sup> Mante's *History of the War in North America*, 1754-1764, p. 148.

<sup>2</sup> The figures are given in detail in Stewart's *Sketches*, vol. ii., App. No. I.

of seeing the glorious lands which are drained by the St. Lawrence and the Hudson. Allotments in the Province of New York to the amount of 2000 acres each were given by the Government to such officers as had occasion to leave the Service.<sup>1</sup> Thus so early as 1765 the American Plantations had become a home both to Highland gentlemen and to Highland soldiers. Not a few of them retired from the Army and settled there, and those who came home recounted round the peat fires of Mull, Skye, the Lewis, and of all the glens of the mainland, the adventures they had met with in the Forests of the Mohawk, of Lakes George and Champlain, and beside the broad waters of Ontario. The love of adventure and the love of fighting all over the world, were incitements thus brought into competition with the rival love of idleness at home. And as the possibility of fighting had come to an end there, whilst the necessity of industry grew more imperative, even old habits, so powerful with all primitive races, became less and less competent to counteract the attractions of the New World.

Powerful as the external influences were which thus came into operation, their action was rendered still more powerful by some new internal causes which about the same time began to crowd the people inconveniently at home. These new causes did not arise from political events of any kind. They arose especially from the concurrence of some discoveries, very different in kind, but all belonging to that class of agencies which often tell on the progress of the world and on the destiny of nations, far more deeply than the valour of soldiers, or the policy of statesmen. The fields of Nature are very wide fields, and of boundless fertility to those who walk on them with an eye to see, and a mind to question. Every now and then, from one or more of her vast domains, there is a rush of new Products, or of new Inventions. Then, suddenly, within per-

<sup>1</sup> *Memoir and Correspondence of Mrs. Grant of Laggan*, vol. i. p. 8.



haps the space of a few years, the Human Family finds itself "endowed with new mercies," and the whole conditions of life are changed over large areas of the world. Such a time, undoubtedly, was the latter half of the Eighteenth Century. Among many others there were in particular Three discoveries, during those fifty years, two of which told upon the whole of Europe, and one of which told especially upon the poorest population of the Highlands. Let us stop for a moment to look at these discoveries, for a whole volume of philosophy belongs to each.

In the dim and far-distant East,—in centuries as remote from ours as the country or the race,—more than a thousand years before the Christian era,—one of those terrible diseases had arisen which belong to the class of Plagues. So sweeping, so fatal, and at the same time so loathsome was it that we might almost suppose King David must have alluded to it when he sang of deliverance from the "noisome pestilence."<sup>1</sup> Yet there is reason to believe that the mysterious isolation of that curious people the Chinese, amongst whom it originated, kept the great nations of Western Asia uncontaminated for hundreds of years later than the latest days of the Jewish Monarchy. The Jews did indeed profit from the commerce of the East. The imagery of their literature is full of allusion to its products, and to the love they had for the employment of them. But neither the "Ivory Palaces" which "made them glad,"<sup>2</sup> nor the "Apes and Peacocks"<sup>3</sup> which ministered to their amusement, or to their sense of gorgeous colour, indicate any access to countries farther east than Hindostan. It was not, apparently, until the last quarter of the Sixth Century of the Christian era that Persian merchants brought the Smallpox from the far East into Arabian ports.<sup>4</sup> But this

<sup>1</sup> Ps. xci. 3.<sup>2</sup> Ps. xlv. 8.<sup>3</sup> 1 Kings x. 22.<sup>4</sup> See Art. on "Smallpox," *Quarterly Review*, vol. xix. p. 361.

was in 572—the very year of the birth of Mahomet. And so it happened that this great scourge was planted in the Arabian Peninsula at the very time when, in the course of a few years, it could not fail to spread into all the regions which were soon to be penetrated by the great Conqueror who had just been born. The basin of the Mediterranean Sea, girdled as it was by all that remained of the oldest civilisations of the world, could not be a barrier, but became rather a channel and a road. The Moors took this new Pest with them when they crossed into Europe, and established their short but brilliant culture in the Palaces of Seville, Cordova, and Granada. Again, when they passed the Pyrenees, and, invading France, were defeated by Charles Martel, Christian Europe was indeed delivered from an Infidel conquest; but even victorious battles could only spread the contagion of disease. And so, from that date onwards, the Eastern Pestilence was established in the Western World, and at frequent intervals it mowed down its thousands among all the races which had settled there. It penetrated everywhere, and was indiscriminate in its attacks upon Celt and Saxon. No place was too secluded, no shore was too remote. From time to time it decimated even the lonely Hebrides. It is strange how entirely this is forgotten now. But we have the abundant evidence of a generation which remembered it only too well. Of the parish of Kilmuir in Skye the Minister writes in 1792 that up to a time beyond the middle of the century Smallpox prevailed to a very great extent, and almost depopulated the country.<sup>1</sup> Of the parish of Snizort the Minister records that when this disease did visit the Island it sometimes swept whole families away, or left only one, or two, or three survivors.<sup>2</sup> The same tale is repeated from such secluded parishes as Durness in Sutherland,<sup>3</sup> and Glassary

<sup>1</sup> *Old Stat. Acc.*, vol. ii. p. 551.

<sup>2</sup> *Ibid.* vol. xviii. p. 182.

<sup>3</sup> *Ibid.* vol. iii. p. 582.

in Argyll, where it is mentioned as having been specially fatal among the children.<sup>1</sup> The effect of such a disease in checking population must have been very great.

Such was the state of things when, in 1716, an Englishwoman of high education and lively wit, going as the wife of the British Ambassador to Constantinople, and spending her holiday among the villages around that city, heard of the strange idea which had long been established among Turkish mothers, that by "grafting" this terrible disease upon their own healthy children they could be made to take the infection in a mild form, and could be practically ensured against its more dangerous attacks in after life. Singularly free from prejudice herself, and having that best gift of genius, the willingness to accept a new idea, Lady Mary Wortley Montagu did not content herself with curiosity and wonder, but carefully examined the evidence, and became convinced of the result.<sup>2</sup> Yielding to this conviction she gave proof of her courage and of her intelligence by "grafting" this terrible disease upon her own child in April 1718. Returning to England in 1719 she spared no exertion in trying to convince others of the safety of this method of escape from a great scourge, and in 1720 was able to tell a friend that the practice had been generally adopted by the highest classes in London.<sup>3</sup> Through some vicissitudes of fortune it made on the whole steady progress, and in 1754 gained the sanction of a most conservative profession in the verdict of the Royal College of Physicians.<sup>4</sup> It is a signal proof of the terror with which the pestilence of Smallpox must have inspired the people who had suffered from it, that a race so hostile to all novelties as the Highlanders was

<sup>1</sup> *Old Stat. Acc.*, vol. xiii. p. 658.

<sup>2</sup> Her first account of it is given in a letter, April 1, 1718. *Works*, vol. i. p. 391. Ed. 1837.

<sup>3</sup> Lady M. W. Montagu's *Works*, vol. ii. p. 129.

<sup>4</sup> *Quarterly Review*, vol. xix. p. 366.



nevertheless quickly moved to try a remedy not only so new, but in itself so repulsive to feelings the most natural and the most deeply seated. It appears to have been introduced into the Highlands and Islands about 1760, and was almost universally practised by the people "with surprising success" even in the remote island of North Uist,<sup>1</sup> long before the close of the Eighteenth Century. The plague was stayed. This is the universal testimony of all authorities. And it is remarkable that, in a few districts where adverse prejudices could not be overcome, the disease continued to be destructive down to a much later date. In 1777-8 no less than 77 children perished in one Ross-shire parish, and the minister declares that the disease had been wont to revisit the district every seven years, or even oftener.<sup>2</sup> Here we have a striking measure of the great effect on population produced by the general cessation of a check so long established, and so tremendous in its operation.

Thus the First of the Three great discoveries to which I have referred was one which promoted the increase of population by greatly lowering the death-rate. The Second was a discovery which still more powerfully promoted population by raising the supply of food. Our knowledge of the circumstances attending this great change is all the more interesting from its contrast with our profound ignorance as to the origin and development of the older staples of human subsistence. We know absolutely nothing of the first cultivation of the Cereals, although it is certain that this must have had a definite beginning and long stages of development.

The rapidly expanding commerce of the Eighteenth Century added immensely, and, in some cases, very suddenly, to the variety of human food. But in most cases these additions came in the form of products which could only be grown in distant climates, and the use of which had long been

<sup>1</sup> *Old Stat. Acc.*, vol. xiii. p. 312.

<sup>2</sup> *Ibid.* vol. i. pp. 262-3.

established among other nations. Tea was among the first and most remarkable of these, and it is curious to observe that the use of this beverage made such rapid progress in Scotland in the first half of the century, that even a man so enlightened as Culloden regarded it with positive alarm, and actually recommended that the Legislature should take measures to restrain the poorer classes in their addiction to it.<sup>1</sup> From 1730 onwards it was already wholly displacing the native beverage of beer, and this so widely in the Towns of Scotland and in the Low Country as seriously to affect the revenue. To a large extent, however, the other new and varied articles of import were rather condiments and luxuries, than staple articles of food. It is all the more curious, therefore, that until long past the middle of the century we hear little or nothing of one new product of the vegetable world which was destined in a few years to bring about the most prodigious effects upon population that have ever arisen from a like cause. Nor, indeed, is there any wonder that little attention, and no expectation, should have been drawn to the Potato as at all likely to play any important part in adding to the resources of human sustenance. Although coming from the New World, it belonged to a family of plants which was well known in the Old, and which was most familiarly represented in Europe by the beautiful flowers and the tempting berries of the Deadly Nightshade. So well known had been the noxious properties belonging to the *Solanum*, that when the fruit of another member of the group was first introduced into Europe for edible purposes from the African Coast, the story of a miracle arose to account for its innocence or its wholesomeness. To this day when the Peasant of Provence includes the Tomato in his vegetable diet, he tells his children that originally it had been introduced by the Infidel Saracens as a means of poisoning the Christians,

<sup>1</sup> *Culloden Papers*, p. 190.

but that the "Bon Dieu" had interfered, and had converted it into a delicious fruit. Although the American *Solanum* had been brought home from Virginia in connection with one of the immortal names of English History, Sir Walter Raleigh, it had remained for 150 years in comparative neglect, cultivated only by a few botanists or gardeners as an object rather of curiosity than of use. Nobody could well have guessed its extraordinary properties, as, indeed, none of us can ever fully fathom or anticipate the wonderful alchemies of Nature. That a root belonging to a well-known and poisonous order of plants should turn out not only to be nutritious, but to be richer in life-sustaining power than any known substance of like composition, and that it should turn out to be easily cultivated in our own climate and in the least fertile of our own soils,—were results not to be foreseen by any science. But when this discovery was at last made, it was naturally seized upon by the population, which wanted above all things a crop which should be at once abundant, and, at the same time, capable of cultivation with a minimum of labour. The Celts of Ireland very soon began not only to use it as an adjunct to other food, but to live upon it as their main subsistence. From them it passed over to the Celts of the Hebrides, having been introduced into the Island of South Uist so early as 1743 by Macdonald of Clanranald. Suspicious of all novelities, the Highlanders resisted the use of the Potato for some years, and it did not reach the neighbouring Island of Bernera till 1752. Yet within ten years of that date the Potato crop had come to support the whole inhabitants for at least one quarter of the year. Very soon it was found that it would grow luxuriantly almost everywhere—on land little better than sand and shingle, and in bogs, where it only required to be planted in those patches of ditched-off land which all over the Highlands came to be appropriately known as "lazy beds."



To the two great discoveries just described—one of them eradicating a destructive disease, and the other supplying a new and prolific source of sustenance—there now came to be added yet another—the Third—discovery, one which afforded all along the Western Coasts a new manufacturing industry which was at once lucrative and desultory—an industry which yielded a large return, and yet did not need any steady or continuous labour. This discovery was so curious and so almost unique in its history and results, that we must dwell on it for a little.

The men whom the world calls Thinkers are often curiously thoughtless,—else the attempt would never have been made to distinguish between the additions of value which are “earned” by Owners or Producers, because of some meritorious action of their own, and certain different additions which come to them from the exertions of other men, or from the general conditions of Society. For the distinction breaks down the moment we look into it, and the moment we grasp the fact that all kinds and degrees of value come largely, and sometimes exclusively, from causes with which the Owners or Producers of valuable things have nothing to do. And most especially is this the case with those who live by the labour of their hands. The value of that which alone they have to sell, depends entirely on the desires, or on the knowledge, or on the powers of other men; and it constantly happens that sudden and great additions accrue to them upon that value, which they have not only done nothing to secure, but which it has been entirely out of their power either to expect or to foresee. There is no phrase so rich in fallacies as the common phrase that Labour is the only source of Wealth. It has no truth in it whatever—except when Labour is understood as including every form and variety of human influence and exertion, and especially the forms which are purely intellectual. Moreover, all these forms and kinds and degrees of influence

must be included, not only as operating in our own time, but as they have been exerted continuously in all preceding generations. These generations have been the stages of our own growth, and each of them has contributed something to the store on which we are living now. In the sense in which Labour is commonly understood, which is physical labour, nothing can be more erroneous than the idea that it is the only, or the ultimate source of Wealth. Mind comes before Matter; Brain comes before Muscle; Head comes before Hands. This is the law of Nature, and this is the order of precedence in her eternal Hierarchy. We have seen how, during the Military Ages, this complete subordination and dependence of the lower upon the higher kinds of human energy was evidenced in the enlisting of whole tribes of men under Chiefs of known capacity and power. In the Industrial Ages on which we have now entered the same great law of Nature was illustrated continually in the unlooked-for benefits which were daily and hourly accruing to the owners of Muscle from the owners of Brain, and from the new desires and demands started by their work in the community at large.

Never, perhaps, was this order of precedence more signally shown than in the great increase in the value of their labour which came to the poorer classes of the Western Coasts of Scotland from the new industry to which I have referred. We have seen that the Founders of new nations in the reign of Elizabeth,—Botanists, and Gardeners, and Proprietors ever since,—had all been concerned in giving them a new product from the Land. Chemists and Manufacturers were now at work to give them a new product from the Sea. And in this case, too, nothing could have been more unexpected, or less connected with any kind of exertion of their own. The Ocean is fertile beyond all conception in animal life—immensely more fertile than the dry land. But, on the other hand, it holds within its vast

domains nothing of the vegetable world, except the lowest of its forms. Moreover its vegetation, such as it is, is almost entirely confined to two narrow areas of shallow depth—one which finds its limit between high and low water mark, called the Littoral Zone, and the other an area close to shores which is known to naturalists as the Laminarian Zone. But in these two Zones between high water mark and a maximum depth of about fifteen fathoms,<sup>1</sup> wherever there are rocks or stones for attachment, sea-weeds grow in beds and masses which are often luxuriant and dense. Some of the smaller species, especially those belonging to the Green and Red series, are among the most beautiful Forms in nature. But the Olive-coloured series are not attractive in appearance, although they are the richest in useful products. Torn, slimy, and unsightly, when out of the water, and fetid in their decay, their multitudinous cells of organic structure are, nevertheless, so many batteries for eliminating and fixing in their own walls many of the inorganic elements of our world, which are held in solution by the Sea. In particular, the salts of Sodium and Potassium are richly concentrated in the stems and fronds of some of them, besides such rarer substances as Iodine and Bromine. Chemists in the service of the rising Industries of the Low Country soon found that from those sea-weeds which grew between the tides, a plentiful supply could be extracted of the Carbonate of Soda. In the manufacture of Soap and of Glass established at Whitby and at Newcastle, this product was valuable. There are many maritime countries to which this discovery would have brought no great source of wealth, because the Sea Coast is very often but a single border line, and much of it occupied by sandy shores, destitute of sea-weeds. But of all countries, probably, in the world, the Western Coasts of Scotland present the rare physical characteristics which could give to this discovery a maxi-

<sup>1</sup> Balfour's *Botany*—Algæ.



mum value. These coasts are wonderfully indented—the Ocean sending out innumerable arms which extend far among the hills—so far, and into such sheltered reaches, that the hazel-nut and the acorn drop ripe into waters continuous with the poles. The shore lines of the County of Argyll alone, with its Islands, extend to 2289 miles<sup>1</sup>—lines which, if unrolled, would almost reach the shores of the New World. Along the whole extent of the outer Hebrides, sea and land are intermixed through a thousand channels, so that within the space of a few miles they often constitute a labyrinth of creeks, rocks, and islets—generally exposed to a great rise and fall of tide. From this last cause the Littoral Zone was unusually ample for the growth of Fuci. Such was the country of which its barren shores were suddenly converted into a fruitful field, and its natural growths could be turned into money, by a kind of work the most simple, and not very laborious. The weed had only to be cut, gathered, and spread to dry upon the rocks or turf. Then a few stones, arranged somewhat in the manner of a prehistoric grave, forming a low and a loose enclosure, was all that was dignified by the name of a kiln. Within this little enclosure a lighted peat or bit of wood was used to set on fire a few fronds of the half-dried weed, and when it burst into a crackling flame, fresh weed had to be added so as to keep it down. In this way the weed was rather melted than burnt into a hot and pasty mass, which finally cooled and consolidated into a glassy and brittle substance not unlike the resin of commerce which is derived from pine-trees. For this substance so easily prepared, from a natural supply of raw material needing no labour in its cultivation, there arose an active demand during the latter part of the Eighteenth Century. It was first established on the

<sup>1</sup> I derive this curious fact from an *Abstract of Geographical Statistics of the County*, drawn up by the late Captain Bedford, R.N., who directed the Admiralty Survey.

shores of the Firth of Forth, so early as 1720, whence it passed to the Orkneys in 1723. In the Hebrides, it was introduced into the Island of Tyree only in 1746. But the price was then trifling. In 1768 the industry had become general and important,—the produce of the Western Coast being estimated at about 5000 tons. The price was then about £6, 10s. at the Glass manufactory of Newcastle. The price varied much during the rest of the Eighteenth Century. But every rise in price was met by increased production. For a short time during the French war the price is said to have reached the high figure of £20 per ton.<sup>1</sup> Among my family estate accounts I find no record of any such price, and down to 1822 the average was probably less than half that amount.<sup>2</sup> Of this valuable material the Hebrides alone produced, when the trade was at its height, about 6000 tons annually—representing in good years a value which was a great deal more than double the whole of the agricultural rental of some of the estates on which it was produced.

Coming, as this new manufacture did, in addition to the two other causes tending to increase population, the trade in Kelp had a prodigious effect. It employed at various seasons an immense quantity of labour, the calculation being that every 300 tons of Kelp gave employment to 200 men during several months in the year. This is intelligible enough when we understand that for every ton of Kelp not less than 20 tons of wet weed had to be cut, dried, and melted,—so that the total produce of the Hebrides represented the preparation of 120,000

<sup>1</sup> Macculloch's *Western Islands*, vol. i. p. 120. In 1803 I find that the price obtained for Tyree and Mull kelp was only £8, 8s. per ton.

<sup>2</sup> This account of the Kelp trade I have taken partly from a MS. Report on the subject drawn up for my grandfather, John, sixth Duke of Argyll, in 1788, and from a paper read before the Society of Arts in 1884 by Mr. Edward Ed. C. C. Stanford, through whose chemical skill and enterprise I succeeded in partially reviving the Trade when almost extinct in 1863, and through whose recent discovery of a new Product, which he has called "Algine," a further development may now be hoped for.

tons of the raw material. It brought in wages which had never been heard of before in the districts where it prevailed. In many places it encouraged families to settle and to multiply where the resources of agriculture were of the poorest; whilst it made both Proprietors and people blind to the dangers of unlimited subdivision. The price paid to the workers for the Kelp they made amounted very often to a great deal more than the whole rent they paid for their holdings—so that as regarded these they sat practically rent free. Under such conditions, the temptations and inducements to early marriage, and a stationary and dreamy existence, were insuperable—and the characteristics of Highland life which we have seen so graphically described by Sir Walter Scott, as applicable to the disposition and distribution of the people at the close of the Military Ages, were repeated and even exaggerated all along the Western Coasts long after the Industrial Ages had begun.

It would have been astonishing indeed, if under such a combination of causes, all coming more or less together, and all stimulating population in different manners and degrees, the Highlanders, and especially the Islanders, had not rapidly multiplied in number. Never, perhaps, in the history of nations, had such unexpected and bounteous fountains of supply been opened to any people—unless, indeed, to Tribes who by conquest had come into possession of some wealthy land. But in this case the new resources had arisen without any exertion of their own. An arrest laid upon the hand of disease and death—a new and abundant supply of food—and, along all the lines of coast, a new manufacture, bringing money where money was almost unknown before:—such were the additions to the value of life and to the fruits of the simplest manual labour, which were brought to the Highlands from outside themselves—from the genius of some, and the invention of others—and the advancing knowledge of



the human family. All these were brought to bear upon a people which had already been increasing rapidly beyond the limits of their subsistence, and the previously known resources of the land they lived in. The result was that they multiplied at a ten-fold rate, and any temporary abundance was soon turned to want.

The effect of such gifts as these upon any society of men, must always depend upon its preparation to receive them. Here, again, we come upon the contrast between the Highlands and the country of the Border Clans. In no part of the Lowlands of Scotland did the use of the Potato lead to any undue increase of the population. Here and there, for a little while, it may have prolonged old conditions. But population had already in the Lowlands become almost everywhere redistributed by the great current of industrial interests which first set in after the union of the Crowns in 1603, and which had gathered head and power after the union of the Parliaments in 1707. The military classes had been, or were being, rapidly absorbed into the ranks of commerce, of manufacture, and of an agriculture which was at least beginning to be scientific. The Potato came too late to stop the migrations which were determined by these new conditions. It was a pure gain with no drawbacks or temptations to abuse. The Potato was used as an adjunct and a supplement to higher kinds of food, and not as a staple article of subsistence. Its place in agriculture was a corresponding place. It took rank among the new Root Crops which afforded the means of a profitable rotation with the Cereals. It became an important article of commerce, and sometimes brought higher prices than any other produce of the soil. In all these circumstances the effect of the Potato in the Lowlands was in contrast with its effect in the Highlands. There the old military classes, the "broken men," were still occupying the ground in the manner, to the extent, and with all the effects

described by Sir Walter Scott in *Rob Roy*. The raising of the Highland Regiments had indeed opened a door for the entering of new motives. But the mere number of men temporarily removed was but a fraction of the numbers which were steadily tending to swell in every glen, and to swarm on every shore. Among them the Potato was seized upon as a new support for a life of inaction. It gradually grew to be the main food of the people during a great portion of the year. It was but little sold or exported. It induced no rise in the standard of living. It brought no increase of accumulated wealth. It was simply eaten. And not only did it feed the people, but it unquestionably made them more prolific. When to this was added a manufacture such as that of Kelp, of which the raw material lay around their own doors, and in the possession of which they had a practical monopoly as compared with all the Southern and all the inland portions of the Kingdom, the Highlanders or Hebrideans were naturally encouraged to feel that they could live in increasing numbers in the enjoyment of a rude and a low abundance, derived from a few productions of the soil and of the sea. They were thus caught, so to speak, by powerful causes tending to stereotype and aggravate the poverty of old conditions, before they had time to be brought within the stream of the nation's industrial life, as it had been developed in the Low country, and among the Border Highlands. It was not possible for them to think of or to foresee that the one new industry on which they so much depended was an industry depending absolutely on the continuance of foreign wars, or upon the continued maintenance of special taxes limiting or prohibiting the import of raw materials far richer than seaweed in the products it afforded.

The result was one which has been almost forgotten, and which at first sight may well seem extraordinary. The poorest portion of the Kingdom became by far the most populous in proportion to

its resources, and speedily exhibited a rate of increase far greater than that which could be seen in the richest and most advancing rural districts of the country. The latter half of the Eighteenth Century witnessed in the Highlands, more especially in the Islands—districts purely rural—a swelling of population which seems almost incredible, and yet the evidence of it is abundant and detailed.

There are two large Islands and two small Islands lying south of the long promontory of Kintyre, and all closely connected with the Firth of Clyde. These are Arran, Bute, and the two Cumbraes. We do not now think of any of these Islands as belonging to the Hebrides or to the Highlands—although there is no wilder mountain scenery in Scotland than Glen Rosa and Glen Sannox in Arran. But the stream of commerce, and of the industrial life of the Kingdom, has now so long circled round them, and has so penetrated through them, that all the conditions are the settled conditions of the Lowlands. But we must remember that in the last century this was not so. At that time they contained Gaelic-speaking populations whose habits of life were the same as those of the other Western Isles. Counting this southern group, then, among the Hebrides, there were in all ninety-five inhabited Islands and Islets, including the lonely St. Kilda, on the Western Coasts of Scotland. There is good reason to believe that in the year 1755 the total population of these Islands was about 52,200. During the sixteen years between 1755 and 1771 the increase amounted to 10,538. During the next twenty-four years, from 1771 to 1795, the further increase amounted to 12,728—so that taking the forty years between 1755 and 1795 the total increase was 23,266, or not far short of one-half of the original number of inhabitants.<sup>1</sup> Considering that the whole of this Insular area may be said to have been almost purely rural,—since two or three so-called Towns were then

<sup>1</sup> Walker's *Hebrides*, 1808, vol. i. pp. 24-6.



nothing but insignificant villages,—this is a rate of increase which was probably unknown in any part of Europe, seeing that it arose from breeding only, and included no element of immigration. Moreover, it is all the more remarkable when we compare it with the rate of increase in the kindred population of the mainland during the same period. In 1755 the Gaelic-speaking Parishes on the mainland had a total population of 237,598, yet on this much larger number the increase in 1795 was little more than one-half of the increase on the smaller population of the Islands. Although several causes contributed to keep down the rate of increase on the mainland as compared with the Islands, yet we cannot mistake the one cause which operated most powerfully as an artificial stimulus to population in the Hebrides. Beyond all question, it was the Kelp manufacture. It is true that many Parishes on the mainland were extensively bounded by the sea-shores. But the purity and strength of the water in the open Ocean, and the tumult of its uncontaminated waves, are required to stimulate the growth of the richest seaweeds. Apart, therefore, from their immensely more extended lines of coast there were chemical causes at work to concentrate the Kelp trade in the hands of the Hebrideans; and it was on the strength mainly of this tempting, but dangerous, because precarious, industry that these people multiplied so fast. This conclusion is confirmed when we look into the details. The Insular Parishes in which the population increased fastest between 1755 and 1795 are almost always the Parishes which had the most productive shores for seaweed. Thus the Parish of the Small Isles (Rum, Canna, Eigg, etc.) rose from 858 to 1339; Stornoway, in the Lewis, from 1836 to 2639; Kilmuir (Skye) from 1581 to 2500; Tyree from 1602 to 2416. These are but individual examples of a general fact. On the mainland the largest increase was in the Parishes which had the longest boundary

of open sea, whilst in some of the inland Parishes there was no increase at all, and even, in some cases, an actual decline in numbers. Thus the inland Parish of Farr, in Sutherland, diminished by 200, whilst its coast neighbour, Tongue, with a long line of shore, increased by more than 400.<sup>1</sup>

It was impossible that there could be such a rapid and extraordinary increase of population without results specially dangerous among men who were the poorest in the Kingdom, and who were the least qualified to provide against it by the resources of a various and an advancing industry. Under such conditions there could not fail to be a tremendous and frequent pressure upon the limits of a bare subsistence. Accordingly the evidence is abundant which proves the extreme poverty of the country, and the frequency with which its people were exposed to the severest scarcity, and sometimes to the dangers of actual famine. There are ample sources of information which fill up all the time between the date spoken of in Sir Walter Scott's tale of *Rob Roy* and the close of the Eighteenth Century. We have the famous Letters of Captain Burt written about 1730 by an Officer who was stationed at Inverness, and travelled often through the Central Highlands on his way to and from the Capital of the North. We have the Tour of Mr. Pennant, who, in 1769 and 1772 visited not only the mainland, but the Hebrides, and saw everything with the eye that belongs to the Naturalist and the Scientific Observer. We have the systematic and admirable work of Professor Walker, the result of successive journeys through every part of the country undertaken at various intervals between the years 1760 and 1790. We have the *Statistical Account of Scotland*, organised by Sir John Sinclair in the last decade of the Century—1792-5—in which we have all the information which occurred to the best educated men in the country,—the Minister of

<sup>1</sup> Table of population in Walker's *Hebrides*, vol. i. pp. 28-9.



“QUENAIG,” RANGE OF MOUNTAINS, SUTHERLAND.





each Parish giving as complete an account as he could of its history and of its actual condition. Lastly, we have the Professional Reports drawn under the direction of the Board of Agriculture about the same time. The great advantage of all these books is, that they were written before many modern controversies had arisen, and when the view taken of facts was unbiassed by the social theories and the political passions of a later day. The burden of their song is uniformly the same, and the earliest of these writers, Captain Burt, illustrates his picture of the condition of the people by details and incidents which are often more instructive than any general statements, however accurate.

There is, for example, no indication of the condition of industry, and of the standard of living, in any country, more significant and more accessible to observation, than the scene presented by its Market-places. If its natives have any produce at all to sell, it must be brought to these places, and the range of variety, of quantity, and of price to be met with there, is an infallible index of plenty or of want. Inverness, though a mere village in 1730, was still not only the most important place in the Highlands, but the only Town existing in the country. Yet Captain Burt's account of its Market-days is an account of almost incredible poverty. One man might bring under his arm a small roll of linen, another a piece of coarse plaiding. Such men were quite considerable Dealers. Others would bring two or three cheeses of about 3 or 4 lb. weight. A kid sold for sixpence, or eightpence at the best. Small quantities of butter, tied up in bladders, were set down in the dirt of the street. Here were a few goat-skins—there a piece of wood for a cart-wheel. The price of such articles when sold was spent by the natives in purchasing a horn, or a few wooden spoons, or a wooden platter, or some such rude plenishing for their huts. One Highlander might be seen near eating a large onion without salt or bread

—another gnawing a carrot—or other such vegetable rarities, none of which were then produced in the country.<sup>1</sup> Nor can we encourage the sentimental comfort that although little was sold, yet plenty was produced, everything being consumed at home. Poverty in marketable surplus is an infallible indication of a corresponding poverty in home consumption, and in home production. Where there is habitually little or no surplus, not even a bare sufficiency can ever be secure. There may be years of plenty; but there are quite sure to be many years of scarcity, and some of famine. Accordingly, Captain Burt tells an anecdote “of the time of one great scarcity here,”—as if the full record of such times would include a number. And the anecdote he does tell of that one time, brings pathetically before us the tremendous difference between that kind of destitution which affects individuals alone from the want of money, and that other kind of destitution which affects a whole people from the want of food. A woman came to the wife of the Officer in command at Fort-William, imploring her to get for her a single peck of oatmeal from the Military Stores, to save her children from starvation. But even the Military Stores were at a low ebb, from the impossibility of buying meal in the country, and the detention of some expected vessels. The poor woman was therefore offered a shilling as a mark of sympathy. After looking at it for a moment, she burst into tears—laid the useless coin down—and exclaimed, “Madam, what am I to do with this? my children cannot eat it.” The peck of meal was given to her, and Captain Burt says he never saw such joy. But what must have been the condition of the people who were not near any Military Stores, and had no importing vessels to look to when storms had passed?

Some forty years had elapsed from that date to the date of Pennant’s Tour. There was no change

<sup>1</sup> Burt’s *Letters*, vol. i. (ed. 1876) pp. 83-4.



for the better. The use of Potatoes had extended, and the manufacture of Kelp had become universally established wherever the materials existed. But population had pressed hard on the heels of every new resource. During even a portion of that interval—during even one quarter of it—the number of mouths to be fed had in many Parishes increased not by dozens, or by scores, but by hundreds. The consequences were what might have been expected where there had been absolutely no corresponding advance in the knowledge or practice of a higher agriculture. Pennant saw poverty everywhere, with scarcity at the very doors. In the great and fertile Island of Islay he saw “a people worn down with poverty”—raising wretched crops of Bear, and “drinking more of it in the form of whiskey than eating of it in the form of bannocks.” In their smoky cabins “pot-hooks hung from the middle of the roofs, with pots pendent over a grateless fire, filled with fare that might rather be called a permission to exist than a support of vigorous life”—the inmates lean, withered, dusky, and smoke-dried. Notwithstanding the excellency of the land, above £1000 worth of meal was annually imported. A famine was threatened at the time of his visit, but was prevented by the seasonable arrival of a meal-ship.<sup>1</sup> Of the Island of Rum he wrote that the people were a well-made, well-looking race, but carried famine in their aspect.”<sup>2</sup> Of Skye he said that the produce of the crops was very rarely “in any degree” proportioned to the wants of the inhabitants. Golden seasons had happened, when they had superfluity. But “the years of famine were as ten to one.”<sup>3</sup> It is nearly the same story everywhere. In Sutherland he found the people almost torpid with idleness and most wretched, the whole tract seeming the very “residence of sloth.” Until famine pinched, they

<sup>1</sup> Pennant's *Tour*, 1771 (ed. 1776), Part I. pp. 261-2.

<sup>2</sup> *Ibid.* p. 319.

<sup>3</sup> *Ibid.* p. 353.

would not bestir themselves ; but crowds were passing when he was there, emaciated with hunger, to the eastern coast, on the report of a ship being there loaded with meal.<sup>1</sup>

In all descriptions written by an English stranger some allowance is to be made on account of the much higher standard of living to which he was accustomed among the agricultural population of the South. As regards certain particulars, this allowance may be large ; as, for example, when such strangers speak with horror and disgust of the Highland huts and hovels with no chimneys, the fire made in the middle of the floor ; or when, in respect to food, the people are described as repairing to the shores to live on shell-fish. Such houses were not very much poorer than those which the Chiefs themselves had inhabited only a few years before ; whilst the habitual use of shell-fish as one article of diet was no evil at all, and had certainly descended by unbroken usage from prehistoric times. Shell-fish are now among the luxuries most enjoyed by the most comfortable artisans in our largest Towns. To be driven to live upon shell-fish almost exclusively is, however, a very different condition of things. On the other hand, we must remember that this low standard of dwellings and of food, as compared with the same classes in the South, is part of the case which illustrates and establishes the dangerous position of the Highland people up to the close of the Eighteenth Century, when, in the face of such poverty, they were nevertheless increasing at the rate which has been shown. Moreover, we have such evidence as that of Pennant more than confirmed by men from whose language no deduction whatever can be made on account of their being strangers, or on the ground of unfamiliarity with traditional and poor conditions of habitation, or of food. The truth is, that the language of Pennant, spoken of the years preceding 1772, falls far short

<sup>1</sup> Pennant's *Tour*, 1771 (ed. 1776), Part I. p. 365.

of the descriptions—although less eloquent and sensational in form—which are given of some following years by the native Ministers, whose invaluable Reports constitute the First Statistical Account. Only ten years after Pennant's Tour, in 1782-3, there was a great failure of the Oat and Bear crop all over Scotland, and the scarcity told, of course, with double severity in the Highlands. Thus, even in Easter Ross, a district comparatively fertile, the Minister reports that the resources of the sea in fish, and especially in shell-fish, were the main support of the people in his own Parish of Fearn, and in all the neighbouring Parishes; "so that hundreds of men and women, with their horses, were seen daily coming home with great burdens and loads of the best cockles." But bad as this was, it was better than forty years before, when (in 1740), many people were starved to death.<sup>1</sup> The same Minister, writing in 1791, declares that the terrible year of 1781 was only the beginning of a series of bad seasons, which had then continued ever since, so that nothing like a good crop had been raised among them during the ten intervening years.<sup>2</sup> Another Minister in the same County says that the scarcity of 1782 had impaired the constitution of some of the poor for the rest of their life.<sup>3</sup> From Orkney we hear that in some "late bad years" the people lived very miserably, mostly upon milk and cabbage, although none had actually died.<sup>4</sup> But within the memory of then living men, in 1739-41, the years had been so bad that many had died of want.<sup>5</sup> In Mull the memory had survived of a terrible famine about a hundred years before, in the reign of William III., which had almost depopulated the whole Parish. On one extensive line of shore only two families had survived.<sup>6</sup>

The great interest of these facts lies in this,

<sup>1</sup> *Old Stat. Acc.*, vol. iv. p. 300.

<sup>2</sup> *Ibid.*, vol. i. p. 262.

<sup>3</sup> *Ibid.* p. 319.

<sup>4</sup> *Ibid.* p. 299.

<sup>5</sup> *Ibid.*, vol. xiv. p. 332.

<sup>6</sup> *Ibid.* p. 188.



that they reveal a principle and a law. A people which has little or nothing to sell is quite sure to be a people liable at times to have little or nothing to eat. It is a common sentiment to admire the olden times, and the primitive conditions in which small communities lived for themselves only, consumed all that they produced, and produced only what they could consume. But though this is a common, it is nevertheless an ignorant sentiment. Where there is no surplus, there can be no storage, no saving, no accumulation. And where there is none of these there can be no security against the vicissitudes of the seasons. The production must be without knowledge, and the consumption without foresight. It would be presumptuous, indeed, to say that great civilised communities, in the possession of skill and capital, can never be liable to famines. It is easy to imagine, and even to specify, contingencies under which the richest populations might be overwhelmed. If, for example, any disease comparable in destructiveness with that which in 1846 attacked the Potato, were to attack the Wheat plant, or still more the Cereals in general, nothing could avert a desolating famine. It is well that we should remember such possibilities, and that we should recognise the dependence which they imply. But as a matter of historical fact the prevalence of scarcities and famines has steadily diminished over the world in proportion to the establishment of civilised conditions. And the very first of these conditions is the working of all Producers beyond the mere getting of a subsistence for themselves. In the making of some surplus, and in the storing of it, or of its value, lies the origin of Capital. Both are the direct result of Mind—of Mind in the form of knowledge, or of invention, or of skill in working; and of Mind in the form of intention and foresight in the use to which gains are put. A people that is consuming almost all that it produces, can be contributing

nothing to the progress of the world, and is quite sure to be pressing very hard and very dangerously on the limits of its own subsistence. There may be cases in which this is at least comparatively unavoidable, because of the barrenness of the land they live in, and the poverty of its resources. But in the vast majority of cases it arises simply from ignorance, and from mental lethargy.

The Human Species presents in this matter a great enigma. It is the high prerogative of Man to subdue Nature—by knowledge to find out her fruits, and by skill to cultivate and to improve them. But whole generations, and even centuries, may pass over particular portions of the Human Family during which this prerogative seems to fall with them into complete abeyance. In matters purely physical it becomes literally true that seeing, they see, and do not perceive—that hearing, they hear, and do not understand. No suggestion, however obvious, seems ever to occur to them. They tread upon with their feet, and fumble in their hands, many of the most bounteous gifts of the organic world, each one of them with immense possibilities of development—and yet not a single hint is taken—not a single seed is sown—not a single germ is tended. Even the slender inheritances of former ages are hardly preserved, or are actually suffered to fall into ruinous decay. It is the frequency of this phenomenon that gives force to the argument of Archbishop Whately that no race of Man has ever risen from the lowest stages, except by contact with some Intelligence other than, and higher than, their own. Nor is this a question of race. All races have exhibited this condition during long periods of stagnant life, and some of them, too, in combination with high qualities of imaginative and lively wit. Such was the condition of the Highlanders in respect to their knowledge of the agricultural resources of their own country, not only during all the Military Ages, but down close to the times in which we are now living. The detailed

accounts of it which we have from the most authentic sources, and that which some of us could give from our own observation, seem really to be hardly credible. And yet it is always to be remembered that the same thing was true of the Lowlands at an earlier date. The Highlanders were from one to two centuries behind in almost everything. Many causes contributed to this—distance, language, the habits and the usages of Celtic Feudalism.

It is, however, a great mistake to count among these causes any natural barrenness of soil. The Highland country is not a poor one as regards some great natural productions. Its climate, though unfavourable for certain fruits of the earth, is pre-eminently fitted for others, and these of a highly valuable kind. The truth is that it yields some such products in a rich abundance with which few other countries can compare. The native crop of the country is its natural Grasses, which are luxuriant beyond description—covering with verdure the steepest mountains, and the loftiest tablelands, insinuating themselves among the barest rocks, and carpeting the sandy levels along the margins of the sea. Some parts of the country, which have been reputed to be the poorest, and in which the inhabitants have been most, and longest poverty-stricken, are now well known to be naturally the richest in the quality of their Grasses. The Hebridean pastures are of the very finest quality. From the earliest times all over the Highlands the people had been possessed of a native breed of Cattle, and of a native breed of Sheep—domestic animals through which these Grasses could be converted into the most coveted forms of human food, the very best of meat, and the very best of cheese and butter. Yet they did not know the methods of breeding or of feeding, which to us now seem the most obvious and elementary. For example, it never occurred to the people that the over-abundant herbage of summer could be cut and dried, so as to



furnish provender for the winter. The consequence was that their Cattle died by thousands in every season which was at all severe. All the surplus grass, which might have been made into hay, was allowed to rot in absolute waste. Those which survived the winter were miserably small,—not because the breed was a bad one, or because it was incapable of improvement, for even now it is a favourite in the market,—but simply because the animals were neither bred nor fed with the slightest knowledge of the simplest methods.

But more than this :—strange to say, whilst no natural hints or suggestions in the direction of improvement seem ever to have been taken, even the most accidental causes in the direction of decline, were not only yielded to without resistance, but were accepted and cherished under ridiculous arguments and superstitions. Thus, the pressure of famine had driven the people occasionally to resort to the barbarous and destructive expedient of bleeding their Cattle for the purpose of mixing blood with the produce of their scanty grain, and so making cakes more sustaining than oatmeal and water. They had forgotten the origin of this custom, and they did not know that it must tend to aggravate the feebleness and exhaustion which affected their animals from poverty of winter food. The idea arose that the Cattle were the better for being bled, and the practice was continued when the original necessity had ceased. I have myself spoken with men still alive, and not of extreme age, who recollect having eaten those cakes when they were children, and who seemed to regret the loss of them among other Celtic blessings which a remorseless civilisation has swept away. The miserable size and condition of the Highland Cattle, even when they survived the winter at all, is described by many writers. Captain Burt likened them in size to “Northampton Calves.” And yet these Cattle were the only produce of the country which was ever sent to southern markets.

They were the staple of the whole area of the Highlands, the only produce on which the people could depend for any surplus, or any means of purchasing the fruits of other lands.

The same story, but with some circumstances of special aggravation, has to be told of the treatment in the Highlands of that other domestic animal which constitutes one of the very chiefest resources of Mankind. The native breed of Sheep, like the native breed of Cattle, was small and degenerate. It is now wholly extinct. But there seems good reason to believe that it might have been improved by the same methods which in later years made the Black Cattle of the Highlands so excellent and so profitable. Sheep were never an article of sale. The people had never discovered that any breed of Sheep could live at large upon the mountains. They were treated as delicate and tender animals—folded and housed at night. In this way, of course, they were kept in small flocks only, and wholly for domestic use. Hence, in the Highland code of honour, they were not generally “lifted,” or stolen, like Cattle, which were considered always as lawful prey. The wool of the Sheep was worked up into homespun clothing, and the deficiency of milk from the half-starved Cows was eked out, as it still is in Italy, by the milk of Ewes. Yet, with all the care which such valuable uses did ensure, the care was so little allied with knowledge, that the treatment of the Sheep was even more ruinous and destructive than the treatment of the Cattle. Their pasture was the poorest, and often at a great distance. They were folded in summer and harvest, and housed in winter and spring. No attention was paid to the choice of Rams, and they were left to nature as regarded the breeding season. Consequently the Lambs came before the grass,—all being stinted, and many starved. From the middle of May they were deprived of half their mothers’ milk, by separation during the night, so that the Ewes might be milked



for human use in the morning. About the end of June the Lambs were weaned—sometimes in a most barbarous manner, by tying a small stick across their mouths, which not only prevented them from sucking, but even from pasturing with any tolerable ease.<sup>1</sup> No wonder that the breed decayed,—that they were considered, perhaps erroneously, as incapable of recovery, and were soon everywhere supplanted by another breed, which, for some centuries, had been more skilfully treated in the Low Country.

These miserable conditions of pastoral economy, in a country by nature pre-eminently pastoral, explain and justify an observation made by those who first came to examine and report upon the Highlands. Generally, they said, the natives of most countries, even the least advanced, have something to teach others,—some local product in which their own land abounds, and in the cultivation of which they show a skill from which strangers can learn something. But in the agriculture of the Highlands nothing of the kind was to be found among the people.<sup>2</sup> They did not know how to utilise, with even tolerable economy, the natural and spontaneous resources of their Hills and Glens. They treated with similar simplicity even that most ancient and immemorial gift—the cultivation of the Cereals. The grey Oat, and the Bear, and the Rye, which they grew, were all of inferior sorts, and bore every mark of having degenerated in their hands. So little did they know that most elementary of all principles in the improvement of the fruits of the earth,—the selection of the best seed for propagation,—that they were actually known to select the worst, on the idea that the best should be used as food, and that the worst was good enough for casting into the ground. There

<sup>1</sup> *Agricultural Survey of Argyllshire*, 1798, p. 240. By James Macdonald, A.M., 1811. Drawn up for the Board of Agriculture.

<sup>2</sup> Walker's *Hebrides*, Introduction, p. 4.



are a few places in the Hebrides where a light sandy soil so drinks in the rays of the sun, and so retains the heat, that they used sometimes to yield a large and an extraordinary early harvest, even from twenty to twenty-five fold. But the general return of arable land in the Grey Oat of the country did not average more than from three and a half to four fold, although neither the soil nor the climate could be blamed for this. Nowhere in Europe was equal labour bestowed on such an inconsiderable crop.<sup>1</sup> And to the scantiness of their harvests in respect to quantity was added the loss constantly arising from the difficulty of securing them. This was almost entirely due to the inveterate habit of sowing so late in the spring that the grain rarely ripened before the early autumnal gales. Furthermore, the people, before the introduction of the Potato, had not a single garden vegetable, or any vegetable product whatever, except their grain.

Yet it was in the face of all this poverty of knowledge, and consequent scantiness of production, that the population was, nevertheless, increasing at the tremendous rate which has been shown. On almost every farm there were double, sometimes treble, or quadruple the number of hands which were required for the labour to be expended. And this too, in spite of implements and methods of handling them, which were as primitive and as wasteful as their customs in respect to the breeding and feeding of Cattle and of Sheep. Their Plough was a rude machine, to which four horses, or sometimes in the Eastern Counties, eight oxen, were yoked abreast, and which were tended by at least three men. One of these had the strange function of walking backwards in front of the animals, and striking them in the face, "to make them proceed forwards."<sup>2</sup>

<sup>1</sup> Walker's *Hebrides*, vol. i. pp. 212-213.

<sup>2</sup> *Ibid.* vol. i. p. 123. The real object of this arrangement seems to have been to enable the man to stop the team at a moment's notice, lest the least check from a stone or a root might carry away the whole rickety gear.

But this was not all. The Plough was often preceded by another archaic machine, called a Reestle, for cutting the fibrous roots which the Plough was incompetent to deal with. One or two more horses were required for this, and two additional men. Thus, from four to six horses, and from three to five men were performing, and performing very ill, the work which could have been better done by two horses and one man.<sup>1</sup> There was thus all over the country a great superfluity of hands, which it was impossible fully to employ, and of mouths which it was quite as difficult adequately to feed. There were few farms in the Highlands which could not be equally well cultivated with one-third, and some with one-half fewer men-servants and horses than were actually used.<sup>2</sup> Two Parishes are mentioned which afforded more than 500 men to the Regiments in the American War of 1755-63, and yet all their cultivation went on as before. In one district of these two Parishes, of which the rent was £700, there were 700 women, all of necessity half idle.

The perfect similarity between many Highland and many Lowland Parishes, as regarded soil, climate, and character of surface, made the contrast all the more striking between their rural economy in these respects. In the South, there was no such waste of labour, no such extravagant superfluity of horses and of hands. There the population had become adjusted to the industry and the known resources of the country.<sup>3</sup> Hence the contrast, too, between the two portions of Scotland, in respect to the activity of the people. The language which Sir Walter Scott puts into the mouth of the Glasgow Bailie respecting the habitual idleness of the Highland people, is language which was perfectly correct as the description of an hereditary habit, but would be wholly incorrect as a description of any peculiarity of race. Thousands of the people who were so industrious in the

<sup>1</sup> Walker's *Hebrides*, vol. i. p. 125 and p. 83.    <sup>2</sup> *Ib.* p. 84.    <sup>3</sup> *Ib.* p. 82.

Lowlands were quite as much of Highland blood as any of those who remained among the mountains. The people in the Highlands were idle simply because they had little or nothing to do, and thus idleness had become with them, as it will become with all men under like conditions, habitual and hereditary. They had long been multiplying beyond the opportunities and the calls for labour which could be afforded by the knowledge and by the habits of the society to which they belonged.

Such was the state of things when some acquaintance with more civilised conditions began to stir the minds, and elevate the desires of the Highlanders. Men returning from the more plenteous lands in which they had fought and bled with unsurpassed courage, discipline, and devotion, could not but feel the nakedness of their own country, and the poverty of their own hereditary modes of life. The same influence arose in numberless districts from men who went to service in the Low Country. Restlessness, and a sense of discomfort arose among them. They did not see any means of improvement in their own country, because its poverty was inseparable from those very habits and institutions to which they themselves had always been most devotedly attached. On the other hand, they had seen the New World. The men of the Forty-Second had been quartered for many months in Albany, the Capital of the Province of New York. There they had been the admired of all admirers, petted and caressed by the old Dutch families who had founded the Colony, as well as by the English settlers; and there, among the still uncleared forests of the Hudson, they had taken part in happy excursions of camp life, which must have recalled the summer Shealings of the Highlands.<sup>1</sup> Along with several other Highland Regiments they had revenged the defeat of Ticonderoga on the Heights of Abraham. New scenes,

<sup>1</sup> *Memoirs of an American Lady*, by Mrs. Grant of Laggan, p. 57.



and with them, new visions, had opened up before them.

The consequences were natural and inevitable. Within a few years of the close of that war in 1763, a steady stream of emigration to the Colonies poured out from many parts of Scotland, but especially from the Highlands. It began, as all important movements must begin, with the most intelligent and educated classes—those who had occupied the position of Tacksmen, and had been, as it were, the officers and non-commissioned officers of the Military Clans. It extended rapidly among all the subordinate classes of the tenantry—embracing, in some places, a large number of those who, by selling their stock, could realise a sum sufficient to cover the expense and to start the family with some little capital in America. This movement began about 1762, and became general and extensive about 1770.<sup>1</sup> Indeed, forty years before, as early as 1722, no difficulty had been found in recruiting a considerable number of Highlanders at Inverness to emigrate to Georgia. These dates are important. Even the latest of them is before the new system had time to operate, by which the wasted and neglected mountains of the country were for the first time turned to account by the grazing of Sheep. The earliest of these dates is long before that immense work of reclamation had been even thought of. The movement was purely spontaneous and instinctive, and it spread steadily among all the most congested populations of the Western Coasts and Islands. From Duirinish, in Skye, between 1771 to 1790, no less than eight large Transport Ships had sailed with Emigrants for American settlements. They carried off at least 2400 souls;<sup>2</sup> yet so tremendous was the multiplying power that, in 1792, the total population of the Parish was as great as in 1772. From Glensheil,

<sup>1</sup> Earl of Selkirk's *Observations on Emigration*, 1805, p. 171.

<sup>2</sup> *Old Statistical Account*, vol. iv. pp. 132-3.

on the opposite mainland, the movement had been led, in 1769 and 1773, by men who were substantial farmers.<sup>1</sup> In the latter year it reached the remote parish of Reay in Sutherland,<sup>2</sup> and the far Island of South Uist, from which "vast numbers" are said to have followed during the next twenty years.<sup>3</sup> Jura and Colonsay lent their contingent at the same time.<sup>4</sup> The Small Isles followed a little later—the Minister in this case specially reporting that these little fragments of a broken land were "overstocked with people" from the fruit of early marriages, and an area of soil which was "able to supply them but scantily with the necessaries of life."<sup>5</sup> The parents often divided with a newly married son their holdings, already of necessity very small, which "reduced both to poverty and misery." From Appin, one of the oldest seats of the Military Clans, and a Parish with a very small area of arable land as compared with the vast and steep mountain surfaces which were then almost useless, the emigration began in 1775, and, in spite of it, the Minister reports, in 1790, that the inhabitants were then so crowded that "some relief of this sort seemed absolutely necessary."<sup>6</sup>

This was a rush indeed. Some of the Ministers who refer to it call it a "rage." It was purely spontaneous, and in some of its circumstances was marked by the special characteristics of popular waywardness and impulse. The selection made of particular Plantations for the new home, seems curiously capricious, but it was in reality determined by accidents connected with the clannish instincts of the race. Wherever some friends or Clansmen from the same glens or Islands had happened to precede them, there the rest followed, when they moved at all. Thus almost each separate district of the Highlands had its own preference. The

<sup>1</sup> *Old Statistical Account*, vol. vii. pp. 131-3.

<sup>3</sup> *Ibid.* vol. xiii. p. 298.

<sup>5</sup> *Ibid.* vol. xvii. p. 281.

<sup>2</sup> *Ibid.* p. 574.

<sup>4</sup> *Ibid.* vol. xii. p. 324.

<sup>6</sup> *Ibid.* vol. i. p. 488.



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people of Inverness had formed an early connection in Georgia. From Perthshire, Badenoch, and Strathspey the Highland Regiments had been largely recruited for Chatham's war against the French, and the people of those districts of the Central Highlands naturally resorted to the great Province of New York, and formed Settlements on the Delaware, the Mohawk, and the rivers of Connecticut. Argyllshire with its Islands, Skye and the Outer Hebrides, as also Sutherland and Ross, all sent their earlier emigrants to North Carolina, where they formed a Settlement noted in the subsequent American war for its loyalty and misfortunes. The outbreak of that war checked the tide of emigration during the seven years (1776-1783) of its duration, and diverted what remained of it, to Canada, Nova Scotia, and Prince Edward's Island. But there a home was found for those who moved from Lochaber, Glengarry, Moydart and some other parts of the County of Inverness.<sup>1</sup>

The thoroughly popular nature of the movement is curiously illustrated, moreover, by the methods which were taken. When in any part of the country any considerable number of people had determined to emigrate, some leading man circulated a subscription paper, and a regular contract was entered into between the subscribers, and some one of their own number who acted as agent and contractor for the rest.<sup>2</sup> The emigrants did not generally go to any of the Lowland ports. They did not wish to attract attention. They knew that the movement was not favoured by those above them. Perhaps they themselves had even a strangely surviving feeling of military desertion. Vessels were engaged, which came round to the solitary bays and arms of the sea, which everywhere sent their waters close up to the doors of the overcrowded homes. In these the Transports spread their sails quietly and unobserved, and

<sup>1</sup> Lord Selkirk's *Observations, etc.*, pp. 166-7.

<sup>2</sup> *Ibid.* pp. 143-4.

were soon hull down on the neighbouring and friendly Ocean. On the other side of it, as quietly and as unobserved, they landed their invaluable freight—spreading broadcast the seed of a noble race over immense and fruitful lands.

It is indeed a most curious fact that when this movement of the Highlanders first came to be widely known it excited not only general regret, but even general irritation and alarm. The knowledge of it was spread by the Parochial Reports in the *Statistical Account* organised by Sir John Sinclair in 1790. These began to be published in 1791, and continued to appear in successive volumes during the five following years. The Ministers who drew up those Reports were, of course, men of very various abilities. Some of them regarded the emigration with a passive but grudging resignation; most of them with regret; some of them with angry denunciation,—a few only with a clear and enlightened estimate of its causes and its probable results. Yet the evidence of these men was in reality uniform and unanimous as to the social conditions of which the emigration was the natural and inevitable result. They all testified to the scanty and decreasing returns of the soil, to the lean and half-starved Cattle, to the frequent returns of scarcity and famine, and in the face of all this, to the steady, general, and, in some cases, enormous increase of the population between 1755 and 1791. On the other hand, in a limited number of Highland Parishes, the new Tables showed a diminution. The panic and the outcry which arose on this discovery is one of the strangest phenomena of our national history. It is all the more remarkable when we observe that the very first volumes of the *Statistical Account* showed in many Lowland Parishes a diminution quite as great, and in some cases very much greater. Moreover, some of the most conspicuous of these cases of “depopulation”



were in Parishes close to Edinburgh, such as Yester, Cramond, and Dalmeny,—cases in which the decrease amounted to 18 and 25 per cent.<sup>1</sup> Nay, more—the slightest examination would have shown that great diminution was taking place, as a rule, in all Parishes which were purely rural and agricultural. Hardly anywhere was the population increasing, except in Parishes with villages, towns, manufactories, or mines. Everywhere the first step in agricultural reform was the division of labour, and the consequent migration of super-numerary hands. An excellent account of this was given by the Minister of Dalmeny, whose Parish had been largely benefited. Subdivided farms with bad husbandry, puny crops, and both men and beasts almost starving, had given place to thriving tenancies and well-fed labourers.<sup>2</sup> Not the slightest outcry or alarm was raised by this contemporaneous depletion of Parishes in the Low Country, nor was the least attempt made to combat the reasoning by which it was so satisfactorily explained.

This difference of feeling would hardly have been rational even if it had been true that the diminution had been the result of mere Migration in one case, as compared with Emigration in the other. It was not very wise or intelligent to think or feel that men moving off to our own Colonies were less happy, or less useful to the world than men moving off to our own Towns. But, as a matter of fact, even this distinction was by no means an universal characteristic of the movement as between the Highlands and the Lowlands. The Lowland Counties during the same years sent many Emigrants to the Colonies, whilst the Highland Counties sent many thousand Migrants to the great centres of industry in the south. The Highlanders were undoubtedly more attracted than others by the possession of land, and they were

<sup>1</sup> *Old Statistical Account*, vol. i. pp. 345, 224, 232.

*Ibid.* pp. 232-3.

notoriously less accustomed than others to continuous labour. Nevertheless, Highlanders as well as other Scotchmen had long been induced by the high wages of the Low Country to settle in great numbers there. The excitement and agitation, therefore, which arose when men discovered that some Highland Parishes were less crowded than they had once been, and the complete indifference with which the same result in Lowland Parishes was regarded, are an indication of one of the most rapid changes of sentiment that has ever perhaps been exhibited by any people. Forty years earlier the Highlanders were universally regarded in the Lowlands with mingled feelings of hatred and of fear. Now they seemed to be as universally valued as the main defence and the principal ornament of the nation. Beyond all doubt this great change of feeling had a just and an honourable cause. It arose out of the memories of Fontenoy, Ticonderoga, and Quebec. It had been confirmed by the known opinion of General Washington, who having served first with the Highlanders and then against them, carefully acted on the principle that the Highland Regiments must be confronted with special caution as the strongest point of the British line.<sup>1</sup>

But amidst all that was natural and praiseworthy in the outcry against Highland Emigration there was also an element of selfishness. It was not right to think of the Highlands as nothing but a recruiting-ground for soldiers, or to think of its people as fit for no other function than that of fighting. It was not rational to expect that the Highland population would be long contented to live without any share in the growing wealth and comfort of their countrymen in the Lowlands. If the public had looked carefully into the reports of the Parish Ministers, they would have seen that, even as regarded the love of military

<sup>1</sup> Marshall's *Life of Washington*, vol. iv. p. 84. (Ed. 1805.)

service, a great change had already set in. During the war with France in Canada and America, the Highland Regiments had been true Clans—military bodies exclusively Highland, alike in men and officers. Many of the rank and file were gentlemen by birth and by position, and all the officers had personal and local connection with the men whom they commanded. But no such Corps had ever been, or ever could be formed again. Even so soon as in the subsequent war of American Independence, the character of the Highland Regiments had begun to change. They were no longer exclusively recruited in the Highlands; and in some Parishes the Ministers now reported, in 1791, that few recruits for foreign service could be got. This was a change which went on increasing. Just as in the Military Ages, now departing, it had been “broken men” out of whom many of the old Clans had been formed, so henceforth it was chiefly among those Highlanders who had already left their own country, that enlistment continued to be successful. Notwithstanding the frequency of great wars, the Military Ages were coming to a close. The new institution of Standing Armies was completely changing the nature of Military service. It was no longer a pastime. It had become a profession. Highlanders could no longer rush off to short campaigns with old friends and old companions; and then rush back again to live as before on the milk of Ewes, on the blood of Cattle, and on cakes of oatmeal. If they were to move away from home permanently, or for long and indefinite periods of time, they might as well try for something better than the pay of a soldier, and the monotony of a barrack. They had seen and heard enough of higher conditions of life to make them desirous of sharing in them.

The American War of Independence had arrested Emigration. But the last year of that war, and the first of peace—1783—was coincident, as we have seen, with a terrible time of scarcity



and almost of famine. What had been called the "rage" for Emigration naturally revived, and in 1801-2-3 a whole fleet of Transports had been carrying off loads of Highlanders from the Western Coasts. The ignorant jealousy and alarm with which the movement was regarded, swelled apace. It affected, almost as much as any other class, the Proprietors of land in the Highlands. It is a vulgar error very commonly entertained that these early Emigrations were incited, or even encouraged by Landowners. They had just formed a Society,<sup>1</sup> of which my grandfather, John, fifth Duke of Argyll, was the first President, full of Celtic enthusiasms; one of whose aims it was to watch over every interest connected with the Highlands. In 1801 this Society appointed a Committee to consider the wonderful phenomenon of the emigration of a half-starving people. They spoke of it not only with sorrow, but with positive bitterness, and suggested every kind of theoretical scheme, by which it might be discouraged and prevented. So keen was the sentimental and benevolent spirit displayed, that Landowners were unjustly accused of a desire to keep up their supply of cheap labour for the manufacture of Kelp, or of indulging their old pride in a multitude of idle retainers. False, and indeed absurd, as such an accusation was, it is at least worth remembering as an antidote to the opposite accusation, that they were driving off the people from their Estates. It is an unquestionable fact, that at this early period the Landowners of the Highlands and Islands disliked the Emigrations, and did not fully comprehend the meaning or the causes of them. That meaning lay deeper than anything of which they were conscious. Sheep-farming had indeed begun, but it had not reached many of the Highland Parishes

<sup>1</sup> The Highland and Agricultural Society, an admirable body, which has ever since exercised a salutary influence on the progress of Agriculture, not only in the Highlands, but all over Scotland.

from which the Emigration was most copious and persistent. Neither had it reached, nor did it ever reach, many of the Lowland Parishes which Migration had depopulated with even greater sweep.

And yet, however unconsciously, the Proprietors of land had long been contributing gradually and steadily to the great change which led irresistibly to these movements of the people. They had made this contribution in every step they had taken towards a higher civilisation—when they began to think of increasing the produce of the soil—when they ceased to give farms to men who knew nothing of farming—when they sent forth their own sons and kinsmen to officer the Army and the Navy, or to serve the Crown as Governors and Founders of the Colonies—when they abolished or commuted Services at home—when they granted Improvement Leases—when they persuaded their Tenants no longer to cast lots every year, each man for patches of arable ground no bigger than a tablecloth—when they built enclosures—when they showed their people how to make hay, and how to improve their Cattle, and how to manure their land, and how to alternate their crops. There is such a deep-seated and searching Unity in Nature, which includes the Mind of Man and the habits of Society—that not one single new idea, or one single new desire, can be introduced or followed without carrying with it a host of consequences. Every one of these steps in the path of new duties and of new inclinations, tended to break up an old world, and to usher in another which was different in everything. One Highland Minister pathetically epitomised it all. He complained that the people in his Parish, round their peat fires, instead of discussing, as of old, feuds and deeds of war, were now tamely discussing how they could better tend their Sheep, and improve their wool.<sup>1</sup> But as yet the Proprietors did not see the inevitableness of the

<sup>1</sup> *Old Statistical Account*, vol. iv. p. 576.

results which were typified by the lessening sails of Transport Ships, as their topmasts disappeared behind the waves into the splendours of the West. And so their Committee talked of the "malignant" spirit of Emigration as if it were hardly less wicked than Military Desertion. They even succeeded in persuading the Government of the day to pass an Act which, under the guise of sanitary regulations as to food and ventilation in ships, was strongly, though perhaps unjustly, suspected of an intention to prevent it. Lord Selkirk, who favoured emigration, speaks in his Work upon the subject, of the "jealous antipathy" against it which he found "in the minds of the more considerable Proprietors of the Highlands."<sup>1</sup> It was in this spirit that the Committee of the Highland Society drew up their Reports in 1802 and 1803. And yet in that very document they showed their complete knowledge of the fundamental fact on which everything depended. The first cause to which they attribute the Emigration is "such an increase of population as the country in its present situation, and with a total want of openings for the exertion of industry, cannot support."<sup>2</sup> Every other cause was a mere consequence of this one cause—which was in itself all-embracing and all-sufficient. It was not peculiar to the Highlands, but was operating quite as powerfully in every Lowland Parish under like conditions. Only, in the Islands and Western Highlands the stream had been pent up longer, and was overflowing with a rush. One simple explanation—one great natural analogy—would have spared the Committee all their sorrow. A great Hive was swarming. Chiefs and Landowners, Field Marshals, Poets, and Philosophers were standing round the "Skep," gaping, staring, wondering, and scolding, at the naughty instinct of the Bees.

<sup>1</sup> *Observations, etc.*, 1805, p. 130.

<sup>2</sup> *Ibid.* p. 137.



## CHAPTER VIII.

### THE BURST OF INDUSTRY.

THERE is one scene in Scotland which, more than any other, groups within a single landscape so many features identified with the history of the Country and of the Nation, that there is hardly an age in all its Past, which has not some striking memorial in sight. It is the scene lying all around that reach of the Firth of Clyde which not very many years ago was the site of a small fishing village, and is now occupied by the Quays, the Harbour, and Roadstead of Greenock. Splendid as the view is on a clear day, it is not less remarkable on account of the immense variety of interests which belong to all its features. The hills that sweep round from West to North, falling steeply into the Firth along its opposite shores, are the southern extremity, or escarpment, of the Highland mountains. From these shores they stretch without a break, except their own glens and fissures, to the boundary line between Sutherland and Caithness. There is good reason to believe that these mountains, although very far from being among the highest, are among the oldest in the world—older than the Alps, or the Pyrenees, or the Apennines in Europe,—older than the great range of the Himalayah in the Asiatic Continent. The Geologist must ever regard them with curiosity, as suggesting many hard questions in his science, which have not yet been solved. The sudden depression in this line of Hills, which is a conspicuous feature in the land-

scape immediately opposite to Greenock, marks the boundary line of the Grampian ranges towards the East,—a line which runs almost straight from that depression on the Clyde to the North-East Coast of Scotland at Stonehaven. These are interests which concern not the Nation but the Land, and carry us back to times before the birth even of the “everlasting hills.”

Turning our eyes now up the course of the River Clyde every feature in the landscape is crowded with human memories. In the farther perspective we see the point at the foot of the Kilpatrick Hills, where the soldiers of Agricola terminated the line of Forts which then was, and long continued to be, the northern boundary of the Roman Empire. Fifty-six years later the same line was occupied by the continuous Wall of Antoninus Pius.<sup>1</sup> In all history there is perhaps no more striking contrast than the blaze of light which shines upon that Wall and on those who built it, as compared with the profound darkness that encompasses the Tribes against whom it was erected. We know, indeed, that our ancestors were brave, and that they were formidable even in the eyes of Rome. We know that they were defeated, but by no means easily defeated, in open battle with the Mistress of the World, against whom they fought with Chariots and with Horsemen; nay, more—we know that although they lost in the battle, they won in the campaign. Agricola retired from their country into the Province he had gained and fortified. Yet some of them seem to have been so savage that Gibbon sees no reason to doubt the story that they were cannibals.<sup>2</sup> This, however, is a story of events later by about 280 years than the battles of Agricola. It is the story of a mercenary Tribe in the pay of Rome and transported into Gaul. Time does not always mellow or improve. Sometimes it develops Savagery. It

<sup>1</sup> Irving's *History of Dumbartonshire*, ch. i.

<sup>2</sup> *Ibid.* p. 6; and Gibbon's *Decline and Fall*, ch. xxv.

certainly did so among the Cæsars during the same time. The brutal cruelty of Valentinian is not a greater contrast with the virtue and wisdom of Marcus Aurelius and of Antoninus Pius, than the alleged cannibalism of the Attacotti, with the noble eloquence ascribed to Galgacus. The condition of the Tribes he led, remains a mystery. Of their habits, of their manners, of their polity, of their habitations, and of their dress, we know practically nothing, or so little, that it all seems equally perplexing and inconsistent. We cannot believe that the Caledonian Chief really addressed his army before the battle of the Mons Grampius in a speech the least like that which is put into his mouth by Tacitus.<sup>1</sup> It bristles with epigram, and with the results of philosophic reflection. It expresses these results in words so vigorous and terse that one of its sentences has, through all later ages, become proverbial.<sup>2</sup> In short it is a speech breathing the most cultivated eloquence of Rome. Yet neither, on the other hand, can we believe that Tacitus would have put such a speech into the mouth of Galgacus, if that Chief had been known to be a Savage. We are left, therefore, in darkness that can be felt. On the other hand, of the people who built that Wall from the Clyde to the Forth, and whose dominion extended southwards to the Pillars of Hercules, we may be said to know everything in the most minute detail. Such is the power of Literature. The contrast is all the more striking when we remember that this was the epoch when the Roman Empire was at its best. The well-known and splendid panegyric of Gibbon represents the age of the Antonines as the Golden Age of the whole Roman world. Remembering these things, this landscape on the Clyde acquires a special interest. Looking at the Kilpatrick Hills we can see, in imagination at least, the Standards of the Sixth and of the Second Legions covering the men

<sup>1</sup> Tacitus's *Life of Agricola*.

<sup>2</sup> "Omne ignotum pro magnifico."



who worked at that famous Rampart. Nor are surviving monuments wanting to fill up the picture. The artificers and the artists of Rome have everywhere left some lasting records of their sense and feeling for the Empire which they served. When the Engineers of our own day were set to join the Clyde and Forth by a Canal, they found that they could do no better than follow the Wall of Antonine. At frequent intervals the pick and the spade struck upon its foundation stones. Here and there some massive Tablet told how many thousand paces had been accomplished by each laborious Legion. Occasionally, too, some sculpture more elaborate and more beautiful than the rest, embodied the natural feelings of satisfaction and of pride with which the Roman Generals regarded every extension of the Imperial dominion. Such were the Tablets found at Kilpatrick, representing Winged Victories in majestic attitudes of triumph and of repose.<sup>1</sup>

A very little nearer to us than the foot of the Kilpatrick Hills, and seen against them—at the junction of the Leven with the Clyde—rises another feature in the landscape inseparable from the history of Scotland—the great Rock Fortress of Dumbarton. There could not be a more striking symbol of the passage from Roman to Mediæval times. It is not certain whether it was or was not included within the Wall of Antonine. This uncertainty is itself significant. It arises from the fact that Rock Fortresses were despised by Rome. They did not enter into her military system. Roving tribes and rude barbarians had need of natural Strengths. But Rome had none. If a Roman General wished for some sudden hollow for the purpose of fortification, he did not hunt for a ravine; he dug it with the spade; he made a Fossa. If he wished for some

<sup>1</sup> Three Sculptured Stones, one of great beauty, are engraved in Irving's *History of Dumbartonshire*, p. 11, and are preserved in the Museum of Glasgow.

Steep around his position, he did not go out of his way to find a precipice. He threw up a Vallum, or he built a Wall. The lofty rock, therefore, which the southern Celts or Britons of Strathclyde made the capital of their territory,—which they called “Aleluid,” and which, in another Celtic dialect, has since been called after them, “Dun-briton,”—does not seem to have been valued or thought of by Agricola or by Antonine. If they included it at all in their lines, it was for the purpose of covering a ford across the Clyde, which at that time would have given easy access to the Imperial Province on the southern bank. But when the Romans retired, the great “Dun” of the Strathclyde Britons resumed its military importance. Its very name reminds us of the mixture of races from which we spring. For centuries it was one of the Strengths of the Scottish Kingdom—captured and recaptured—used alternately as a retreat, as a palace, and as a prison. More than once it was both of these in the pathetic career of Mary Queen of Scots. It was to gain its friendly shelter that in May 1568 she set out from Hamilton to the fatal battle of Langside; and it had been from the short grassy slope which dips into the river on the western face, that twenty years before, in her early childhood (1548), with her attendant “Four Maries,” she had been carried into the Barge which bore her off to be the Bride of France. It is not easy for us now to realise the importance which in those days was set on the Rock Fortress of Dumbarton. Another revolution in military science, quite recent, has brought us back to the sentiment of the Romans. In the face of our new Artillery, Hill Forts have lost their value. But in the Seventeenth Century the dearest interests of the future were concerned in the possession of that precipitous mass of volcanic rock. Scotland was a special scene of contest between the Catholic Reaction and the interests of the Reformed all over Europe. It was through Scotland that the attack

could best be made on "Great Elizabeth." The House of Guise was encouraged when they heard that Dumbarton was held for Mary. The English Queen wrote personal letters of congratulation when she heard it was captured for James VI.<sup>1</sup> John Knox, in the last year of his life and in physical decay, which left untouched his indomitable spirit, heard with joy of the daring escalade of Crawford of Jordanhill, by which it fell to the Protestant cause in 1571.

This, however, is not by any means the only or even greatest historic memory which is recalled by the same prospect up the Valley of the Clyde. There is another time, much earlier and much more noble in all the influences it has left. Again, a little nearer to us than Dumbarton, on the declivity of the hills of Cardross, which here form the right bank of the Leven, King Robert the Bruce chose his place of residence during the last years of his glorious reign. There he spent his time governing his Kingdom, now and again hunting and hawking, or sailing and rowing in his royal Galley on the two beautiful and then unsullied rivers which flowed—one on each side—beneath his Castle walls. The high but flat-topped ridges of the Kilpatrick Hills, the rocky precipices of Dumbarton, and the far-off blue summit of Benlomond, formed the scene on which King Robert looked when he sickened prematurely under the weight of a memorable life, and when dying he bequeathed his heart to be carried to the Holy Land, in the pathetic scene recorded in verse by Barbour, and by Froissart in prose not less poetic.<sup>2</sup>

The long and troubled Centuries which followed the death of Bruce—the relapse of a large part of the Kingdom into comparative barbarism—the ferocious Epoch of the Clans—have each and all their memorials in the scene before us. The whole length of shores opposite to Greenock are those of the old Province of the Lennox, half Highland, half Low-

<sup>1</sup> Irving's *History of Dumbartonshire*, p. 132.

<sup>2</sup> Froissart's *Chronicles*, chap. xx.



land, full of the sites on which Celtic Feudalism yielded, slowly but steadily, to the higher Feudalism of Civilisation and of Law. It so happens that immediately fronting Greenock there is one feature in the physical geography of the country which stands in sad connection with the close of that struggle. The high ridge which slopes somewhat steeply into the Firth of Clyde is backed by another ridge, in some lights hardly separate, but which on a clear day is seen to be higher and steeper than the nearer summit. This division between two parallel ranges marks the hollow in which lies Glenfruin. Although so close to one of the great centres of our modern life, few wilder or more solitary Glens are to be found in all the Highlands. It was in this Glen that on the 7th February 1603 was fought the last of the savage and bloody battles of the Clans.<sup>1</sup> The Colquhouns of Luss were beaten and decimated in resisting a blood-feud raid of the Clan Gregor. The horror of the scene was brought home to the rising civilisation of the Lowlands not only by the death of several gentlemen of distinction from the valley of the Leven, near Dumbarton, amongst whom was Tobias Smollet, ancestor of the novelist, but also by the butchery in cold blood of some student lads and boys of that Burgh who had been induced from curiosity to watch the fight.<sup>2</sup> There can be no more curious contrast than that between the prospect from the nearer summit, then, and the prospect from it, now. On the northern side lie the deep shadows and the wild but peaceful pasturages of Glenfruin. On the southern side lie the reclaimed fields of modern agriculture, and all the various and busy industries of the Clyde.

And yet even this contrast is less striking and less instructive than the change—the transformation—which was wrought as if by magic, in the character

<sup>1</sup> Irving's *History of Dumbartonshire*, pp. 147-50.

<sup>2</sup> The doubt which has been cast on this ghastly story seems to me to be dispelled by the evidence. *Ibid.* p. 150.

of the celebrated Clan which on that and on many previous occasions had been pre-eminent in ferocity. Sentiment is an excellent thing. It is indeed the salt of the world—the cheap defence of nations. But Sentiment may be bad as well as good ; and then if the light that is in us be darkness, that darkness is intense ! It is a bad sentiment, and not a good one, that can make any man look back with sympathy to the Epoch of the Clans. Sentiment—deep and even enthusiastic—may well be felt for those changes in our national history which broke down that Epoch, and which brought back the character and the genius of Highlanders within the advancing influences of our national civilisation. They soon showed that there they had a part—and a great part—to play. And perhaps never was there a case of it more signal than the case of the Clan Gregor. James VI. was shocked and scandalised, as well he might be, by this massacre in Glenfruin, occurring as it did in a part of his native Kingdom where it could not be concealed, and just at the moment when he was mounting the throne of England.<sup>1</sup> The Clan Gregor were proscribed and pursued as a Blood and as a Race, in a manner hardly less savage than their own slaughter of the Colquhouns.

Yet it was not their race nor their blood, but the system under which they lived, which had made them savage. The Savage is close under the skin with all of us. Our humanity and our civilisation depend entirely on our inherited ideas—on our loyal acceptance of them—and on these ideas being themselves consistent with the historical developments of an advancing Commonwealth. The Clan Gregor, like other Clans, had been taught to believe that the robbery of Cattle was not immoral. The Robber Clans, when they condescended to reason or to think at all on such matters, had a theory of their own. Cattle in Scotland had originally been an indigenous animal.

<sup>1</sup> Queen Elizabeth's death took place on the 24th of March 1603—or forty-five days after the massacre of Glenfruin.

They said that God made the Cattle—that He also made the grass upon the hills, and therefore their conclusion was that Cattle—the very earliest form of human property—could not be considered as rightful property at all.<sup>1</sup> The strongest might always take it, and those who defended it could only hold it by success in battle. This theory is not perhaps quite so incoherent as the modern form of it which applies the same reasoning to property in land, but shrinks from applying it to property in the produce. The old Highland Reivers, on the contrary, applied it only to the produce, and did not think of applying it to the soil from which the produce came. Anarchical doctrines and slovenly reasonings—when not translated into deeds—were little regarded in those days. But the doings of the Clan Gregor in Glenfruin were a little too tangible to be suffered. Their own methods were the only methods which Society could take to confound their doctrines. And so, however cruelly, yet with the universal consent of all, they were proscribed, and their very name forbidden. But their dispersion, and the transplantation of many of them into another country and another atmosphere of custom and opinion, proved but the beginning of a nobler reputation. In the Church, in the Army, and in the Civil Professions, Macgregor has long been, and is now, a familiar and an honoured name. But there is one branch of the old Clan Alpine which more than any other has exhibited the qualities of a reclaimed and ennobled Race. Here, again, the rights of legal Ownership proved to be the successful remedy for the illegal powers, and the dangerous influences of “Chieftery.” The Earl of Murray transplanted three hundred of the proscribed Macgregors from Menteith, and settled them as a barrier against another turbulent Clan, the Mackintoshes, in Aberdeenshire.<sup>2</sup> There, under the

<sup>1</sup> MS. Brit. Mus. 1748.

<sup>2</sup> Sir Walter Scott's Introduction to *Rob Roy*.



name of Gregory, these descendants of the Clan Alpine gave birth not only to some, but to a whole galaxy of the most distinguished men that Scotland has produced. One of them was the friend of Sir Isaac Newton, and among the earliest teachers of his Philosophy. Another of them was the Patriarch of a whole dynasty of Professors of the highest scientific and literary distinction in several of the Universities, both of Scotland and of England. One of them was the inventor of the Reflecting Telescope. Another was at the head of the Medical Profession in Edinburgh, when Society there was at its best, and where, from the combination of many charms of genius and of virtue, he reigned supreme as the "Beloved Physician." With one of the last of this distinguished family I had the honour of being intimate in early life—the late Dr. William Gregory, Professor of Chemistry in the University of Edinburgh—a man of the utmost refinement of character, and of the most liberal and cultivated mind.

The continuity of our national history is not less remarkable than its changes, and this characteristic is not less visibly represented in the scene before us. In looking at the mountains which enclose Glenfruin, we are looking at a district which is still the property of the Colquhouns of Luss. There they have been—traceable without a break—for some 700 years,<sup>1</sup> and there they are at the present day. The thriving Town of Helensburgh, which stretches its gardened Villas up the slope of the hill leading to Glenfruin, is built upon land acquired and held from the Colquhouns by feudal Charters, granted under the rights and powers on which property has rested in Scotland since before the days of Malcolm Canmore.

And now letting our eyes fall from the hills in front of us, to rest upon the broad water at our feet, there can be no doubt of the multitude of objects

<sup>1</sup> See *The Chiefs of Colquhoun and their Country*, by William Fraser, C.B., LL.D. Edinburgh, 1869.

which are representative of the latest developments of our national life. We are standing in the birth-place of James Watt, and we have before us, in all their amplitude, the triumphs of his genius, and of the genius of his successor, Henry Bell. There is not a sight or a sound among the many which fill the eye and the ear from one of the greatest commercial centres of the world, which is not a monument, direct or indirect, to the memory of these two men—of Watt, who, in 1765, by the inspiration of one new idea, which flashed upon him on the Green of Glasgow, that of the “Separate Condenser,”<sup>1</sup> started the Steam-engine on the path of its immense, and yet unfulfilled developments; and of Bell, who on these waters, in 1812, was the first in Europe to apply it to the purposes of Locomotion. It does indeed seem almost incredible, when we remember that there are men not only now living, but keeping a front place in the contests of active life, who were born several years before a single steam-vessel had moved in British Waters. It is but seventy-four years ago since the “Comet” was launched by Bell upon the Clyde, whilst now its harbours and its bays are crowded with Liners which keep up communication with America more frequently—more regularly—and with more safety—than sailing ferry-boats then kept up communication with the neighbouring Sea-lochs of Dumbarton and Argyll.

But the shipping and the harbour of Greenock are the standing memorials of another epoch in our national history which preceded the epoch of Watt and Bell, and in which the way was prepared before them. That was the epoch of the Legislative Union in 1707. The Union of the Crowns in 1603 had put an end to such horrors as the massacre of Glenfruin. But it was not until after the Union of the Legislatures in 1707, that such sights of commercial enterprise as that presented by the Clyde were, or could be seen. I have already observed upon the

<sup>1</sup> Smiles's *Lives of Boulton and Watt*, 1865, pp. 127-8.

greatly exaggerated importance often ascribed to the defeat of the Jacobite Rebellion of 1745. On the other hand, as an Epoch, the Legislative Union with England, accomplished in 1707, is almost as immensely undervalued. It was not only the beginning, but it was the one indispensable foundation, of all the later progress of Scotland in industry and in wealth.

The Clyde bears witness to this truth with a loud voice. The only foreign commerce which Scotland enjoyed before the Union was some traditional and old-standing trade with France and Flanders. A stringent Navigation Law had been passed by the Scottish Parliament just after the Restoration, in 1661, which proceeded on a preamble that trade and navigation had terribly declined during the Civil Wars, and it is remarkable that one of the clauses of this Act confesses that Scotland had then no shipping to protect in any Trade with any part of Asia, Africa, or America, nor, in Europe, with Russia or Italy.<sup>1</sup> Not very much of the world was left to us after these subtractions. All the vast and growing Dominions and Plantations of the British race in India and in the New World were under the Government of the English Parliament. Commerce at that time was universally regulated by the accepted doctrines of restriction and monopoly. Scotland was as jealously excluded from the privileges of English merchants and of English shipowners, as if she were, as in deed she was, a foreign country. In her own protecting Navigation Law of 1661 she had, indeed, offered free trade with England and with Ireland, provided the privilege were made reciprocal.<sup>1</sup> But her comparative poverty, and the smallness of her demand, did not commend this to the English as an equal bargain. On the other hand, Scotchmen had an aptitude, and even a genius for commercial pursuits which had

<sup>1</sup> *Act. Parl. Scot.*, vol. vii. p. 258 (1 Carol. II. c. 277).



begun to appear in every direction. The Bank of England was founded by a Scotchman—William Paterson ;—and it was in the desperate efforts of Scotland to get some outlet for her rising spirit of enterprise that her Parliament and people were led, in 1695, by the same remarkable man, to throw themselves with enthusiasm into the famous Darien scheme. Founded on the most enlightened commercial principles, and intended to open and to establish a new Trade Route to the Indies which will be one of the triumphs of our own day, this great scheme of a Scotchman, who was far in advance of his time, was thwarted and ruined—as it seemed, entirely by the jealousy of England. Her Parliament and her commercial Companies opposed it with passionate resentment, and pointed with horror to the prospect of Scotland becoming a Free Port for half the commerce of the world. Yet only one-half of the Capital Stock was to be held by Scotchmen. The other half was open to Englishmen, and a large amount of it was actually subscribed, and held by them. This, however, did not conciliate the English Parliament. Narrow and odious as its spirit seems to us now, it is impossible to read the Scotch Act of Parliament<sup>1</sup> establishing this great new East India Company, and especially the liberal and enlightened regulations for free trade with all nations promulgated at the Settlement,<sup>2</sup> without seeing that Scotland and England could no longer work together without either a more complete union, or a more complete separation. Two immense Monopolies trading by opposite routes with the same markets,—contending with each other on every Ocean,—jealously separate in destinations which were nevertheless geographically united—and both these Monopolies entitled to the protection of common forces under a common Crown,—could not possibly have been worked

<sup>1</sup> *Act. Parl. Scot.*, vol. ix. p. 277 (1 Will. III., c. 10).

<sup>2</sup> See Life of Paterson in Chambers's *Eminent Scotsmen*, vol. iv. p. 108.

together. The thing was impracticable. Every detail was as full of difficulties and incongruities as the principle of the whole. The drawing of strict fiscal lines between Scotchmen born and living in Scotland and Scotchmen born or living in England, when every day made the passage and the intercourse of the two populations more easy and continual, was like drawing straight lines in water. A complete union or a complete quarrel were the only alternatives. Scotland would have to return to her old historic alliance with France, hostile to England, or the two nations must admit themselves to be one.

It is well to remember how narrowly we escaped from the wrong alternative. The passionate jealousy in England of any rivalry in trade,—the supreme power exercised by the spirit of monopoly over the English government,—the ruinous losses inflicted on Scotland by the failure of the Darien Settlement,—all so exasperated the national feeling in Scotland, that at last in 1703-4 the two Parliaments were actually taking measures for arming against each other.<sup>1</sup> The Scottish Legislature went the length of passing an Act providing that on the death of the reigning Sovereign, Queen Anne, the next Sovereign of Scotland must not be the successor to the English Crown, unless previous to that event some more satisfactory security had been obtained for the liberties and interests of the Scottish nation.<sup>2</sup> To this they were driven by the logic of necessity. The bond of Union, through the Crown alone, was proving under trial to be no bond at all. Or, if it was a bond at all, it was a bond which tied their hands in fight for the interests of their country. Their King, surrounded by English Ministers, and swayed by the feelings of the English Capital, had responded cordially to the most outrageous expressions of hos-

<sup>1</sup> De Lolme's *Essay on the Union*, 1787, p. 19.

<sup>2</sup> *Act. Parl. Scot.*, vol. xi. p. 136 (2 Qu. Anne, cap. 3).

tility against the Scotch on the part of the English House of Commons ;<sup>1</sup> nay more, he had used his Prerogative in Scotland in the same sense. He dismissed his Scotch Ministers, who had the confidence of the Nation, because they promoted the Trade and Commerce of their country.<sup>2</sup> William's part had been, no doubt, a difficult one to play. His relations with the Dutch, as well as his position in England, embarrassed him in dealing with the bold attempt of his Scottish subjects to rival both in the commerce of the Indies.<sup>3</sup> Chiefly, however, it was international jealousy, fast rising into international hatred, between his Southern and his Northern Subjects in Britain, which determined his conduct. The nearer, the wealthier, and the more powerful of the two carried the day. Yet nothing can justify the vindictive and almost savage orders which had been issued by the English Government to all the Governors of Plantations in America and in the West India Islands, that they were not, on any account, to succour or support the emigrants from Scotland to the Darien Settlement. This order might have endangered, and in the sequel did actually endanger, the lives of many of the most loyal of William's subjects, as a penalty upon them for undertaking, not only a lawful, but a most meritorious enterprise. It was also a direct invitation to foreign enemies, and particularly to the Spaniards, to attack the Settlement.

Such an exhibition of the spirit of international jealousy between subjects of the same Crown, and contiguous inhabitants of the same Island, is all the more shocking, and all the more instructive, when we remember that some of the leading men against whom the order was directed were the same men who had lately been intimately associated as fellow-countrymen with the merchants and finan-

<sup>1</sup> *Life of William Carstares*, p. 250. By Rev. R. H. Story, 1874.

<sup>2</sup> *Dalrymple's Memoirs*, vol. iii. p. 132.

<sup>3</sup> See the explanation given in a Paper, purporting to be written by King William, in Story's *Life of Carstares*, p. 251.



ciers of London in another scheme of great national importance, and from whose aptitudes for Commercial Business, England had derived manifest advantage. But such are the inevitable results of encouraging the passions of separate Nationalities, under the nominal unity of one Crown. Antagonism becomes only the more fierce and ungovernable in proportion to the number of jealousies which are aroused, and of contradictory interests and aspirations which cannot be satisfied. At last—not one moment too soon—the English Government became thoroughly alarmed by the bitter animosity which had been roused in Scotland. In June 1704 the Queen addressed an almost imploring letter to the Parliament sitting in Edinburgh, pointing out the dangers to the Protestant Succession, and the encouragement of common enemies, which must arise from the increasing estrangement between the two Kingdoms. She intimated, too, the repentance of England in respect to the Darien affair by a promise to agree to conditions by which such injuries should cease. This Letter or Message was read on the 11th of July 1704, but the only reply was an angry Resolution voted on the 17th that Parliament would not settle the Succession “until we have a previous Treaty with England regulating our commerce and other concerns with that Nation.” And this was followed on the 4th of August by the Act providing that the Successor to the Crown of Scotland “be not the Successor to the Crown of England,” unless under the protection of a Treaty securing the interests of “this Crown and Kingdom from English or any Foreign influence.”<sup>1</sup> Clearly the Spirit of Separation was taking fast—it might be fatal—hold. There is nothing so easy as to fan such flames, and few things more reckless. Scotland had been, and indeed still was, exhibiting consequences not dissimilar in her own dealings with Ireland. Recent acts of the Scottish Parliament

<sup>1</sup> *Act. Parl. Scot.*, vol. viii. pp. 128-137.

had forbidden Trade with Ireland, one of them (1686), in language, and under penalties, which seemed to breathe a special hatred. Not only was any vessel to be confiscated which brought victual from Ireland, but the victual itself was to be "sunk and destroyed."<sup>1</sup> Scotland, no doubt, had her old causes, and causes only too recent, of grudge against that Dependency of the English Crown. For centuries there had hardly been any attempt against the liberties or the nationality of Scotland, which had not been supported by armed men recruited from among the Celts of Ireland. Nothing can ever be forgotten or forgiven where the amalgamating influences of Time are neutralised and defied, by Institutions which dissociate and repel.

The truth is that the affection, which men call Patriotism, must not be idolised. It may be among the highest, and it may be among the lowest of human virtues. It may be generous and fruitful, or it may be narrow and barbarous, according to the worthiness or the unworthiness—the dignity or the meanness—the amplitude or the narrowness—of the object of it. If our "Country" be a Glen, or a Parish, or a Province,—if our compatriots be a Clan, or a Kindred, or a group of military comrades—our Patriotism will be of a corresponding character. If the idea and the sentiment, by which we feel ourselves to be associated with, and bound to, any group of men, be an idea which has in it any germ of growth and greatness—however small that germ may be—then our love of the country, and of the people by which it is represented, is a noble love. But like all our passions it is liable to degradation. It may cease to expand with expanding growths—it may fail to rise with ennobling opportunities. The love of a great Country may go back to the passions of a petty Province, or to the almost forgotten hatreds and antipathies of the Tribal and Barbarous ages of the world.

<sup>1</sup> *Act. Parl. Scot.* vol. viii. p. 598 (2 Jac. VII. cap. 26).

This was the danger from which Scotland and England happily, but narrowly, escaped in the years immediately preceding the Union.

When even a man so enlightened as Fletcher of Saltoun was carried away by the narrower view of patriotism, and wrote, spoke, and acted in the interest of Separation, we are better able to estimate all we owe to those wiser Patriots who saw that the larger hopes, and the wider interests of their Country were identified with the cause of Union. Fletcher, we are told, "disliked England merely because he loved Scotland to excess."<sup>1</sup> It was a dangerous moment. The centrifugal forces had begun to work with great momentum. They were arrested just in time. It is pleasant to remember that not a few of those who made this resistance effectual, and directed the national feeling into the true channel of Imperial greatness,—my own ancestors being among the number,<sup>2</sup>—were descendants of the men who had seen the great work of Union begun in the old alliance of Malcolm and of Margaret; of those who in a later time had fought for, and with, the Bruce; and of those who in generations yet more recent had stood by the Scottish Monarchy for three hundred years, against the disintegrating anarchy of the Clans. And now in happier times they saw that the interests of their country, and its glory, lay in assuming its full share of imperial duties under one Imperial Crown. All they asked was that Scotland should retain everything that she cared to keep of her own domestic Institutions in Religion and in Law.

The patriotic men who effected the Union of the two Nations wisely insisted too, as an indispensable condition, on a perfect equality between them in all the privileges of Trade. England also consented

<sup>1</sup> *Dalrymple's Memoirs*, vol. iii. p. 129.

<sup>2</sup> John, Duke of Argyll and Greenwich, was Queen Anne's Commissioner in the Parliament of 1705, which passed the Act authorising the Treaty of Union; whilst his brother, Lord Islay, was one of the Commissioners who framed the Treaty.



to refund to Scotland the losses she had occasioned by her violent conduct in the Darien enterprise. The whole Capital Stock of the Company was to be repaid, with interest.<sup>1</sup> This, however, was a small matter compared with the removal of all impediments to Enterprise. The effect was immediate and enormous. Scotchmen not only gained a full share of the expanding commerce of the world, but shot ahead of all rivals and competitors in the race of industry and of maritime activity. Before the Union, Greenock consisted of two straggling Villages, each of them with a single row of cottages, most of them thatched, fronting the natural beach. Only one of them had even the accommodation of a wooden pier along which any vessel could lie. Everywhere else along the shore the boats could only be drawn up upon the shingle.<sup>2</sup> The first ship that ever sailed from Greenock for the American Continent had sailed in 1695, and that solitary ship was destined for the Darien Settlement. The moment the Union was accomplished a new life was opened, and a new career begun.

But Trade and Navigation were not the only industries which received a new impetus at the Union. There was another, older and of necessity slower in its growth, which began at the same time to feel the new blood that was stirring the national life, and penetrating all its members. The scene before us, as we look from the Southern Shores of the Firth of Clyde, is one specially representative and characteristic of all the peculiar conditions of Agriculture in Scotland, then, and ever since. There are many large parts of England which have been cultivated land since before the Conquest. Local memories do not go back to the time when these areas were first cleared and settled. In Scotland, too, there are

<sup>1</sup> Article xv. of Treaty of Union. *Act, Parl. Scot.*, vol. viii., Append. p. 203.

<sup>2</sup> Smiles's *Lives of Boulton and Watt*.

some areas of land, comparatively small, which are in the same position. But by far the largest part of the country, not only in the Highlands, but also in the Lowlands, were "brown heath and shaggy wood"—forest, bog, morass, and stony waste—down to the time of our grandfathers—sometimes down to the time of our fathers—not seldom down even to our own recent years.

No such transformation has taken place in any country within so short a space—unless, indeed, in the case of new and savage lands, suddenly brought under the dominion of civilised Man. And of this great change the whole country which encircles the harbour of Greenock is a typical example. There is hardly an acre of level arable land visible to the eye. The few that exist are so foreshortened, and so dominated by mountains or hilly surfaces that they form no feature in the landscape. Early in the present Century, during the war with France, some French prisoners were sent in a frigate to the Clyde. One of them, on looking round him from the deck, exclaimed, with almost a shudder at the prospect, "*Ah! quelle Terre aride!*" This may have been a natural impression for a Frenchman who perhaps came from beautiful Provence, and who had no idea of any fertility except in abundance of Corn, and Oil, and Wine. It was nevertheless a most erroneous impression, because in no part of the South of Europe are the mountains so well clothed with grasses as in the West of Scotland. The naked limestone Ranges of the Maritime Alps, of Italy, and of Greece, are barrenness itself compared with the schistose Hills of Dumbarton and Argyll. But the Frenchman's impression was at least so far well founded, that the land around him on every side, whether on the Lowland and Southern, or on the Highland and Northern Shore, was a land which gave no indications of an ancient and settled agriculture. It was a land which yielded nothing except to laborious Reclamation, and

when he spoke, that Reclamation had not proceeded very far. Even now when fields, and enclosures of every kind, have climbed the hills, and spread along all the shores, there is little that can convey to us through the eye any adequate impression of the Work which has been done,—of the Capital which has been invested—of the Enterprise which has been shown—of the prodigious change which has been effected. In this respect Agriculture is at a disadvantage as compared with other kinds of industry. It is peaceful, quiet, unostentatious. The great buildings,—the tall chimneys,—the crowded quays,—the gallant ships,—the forest of masts, which all catch the eye and impose on the imagination when we look at any of the great Hives of manufacturing or maritime activity,—are all in singular contrast with the unobtrusive instruments, and the equally unobtrusive results of Husbandry. No man can see the tangled woods which have been cleared, the bogs which have been drained, the stones and boulders which have been blasted, broken, and removed. Still less can we see the ignorance which had to be encountered, the stiff resistances of prejudice which had to be overborne. It has come to pass that the results of forethought, and of skill, and of faith in principles, are all now represented by nothing but the silent growths of Nature. Agriculture hides her laborious works under the verdure, or under the golden radiance, of her fruits.

Some personal recollections of the second quarter of this Century will give an excellent illustration of this prominent distinction, and of the kind of work which had been going on during the life of men who were then still in the vigour of their years.

All round the shores of Scotland, but specially conspicuous along the shores of the Firth of Clyde, there are the marks of an Old Coast Line, which is from 30 to 40 feet above the present line of tide. At some date which we do not know, and by some agency which is not thoroughly understood, but



which, geologically speaking, has been very recent, the whole of Scotland seems to have been hitched up out of the surrounding seas to that extent. If it be possible for the Ocean to change its level, and suddenly to sink or retreat below the line at which it has stood for centuries, without any corresponding change in particular areas of the land itself, the effect may be due to such a change. This is a geological and a physical problem which must be left to speculation and to science. Whatever may be the explanation, the fact is certain. The old level of the sea is indicated by a line, more or less continuous, of steep banks or low rocky precipices, which present in many places the distinctive features of cove and cave, and of under-cut shelves of rock. These are the well-known work of water gnawing at the land. The sea must have washed our Island at this higher level for long and uncounted ages. The horizontal distance between that Old Coast Line and our present Coast Line varies greatly, of course, according to the conformation of the land, and the consequent shallowness or depth of the water at different portions of the shore. In some places where the shore was, and still is steep, the Old Coast Line is close to the existing line—only lifted higher up. In other places where the old shores were shallow, the space which has been left dry by the retreat of the sea is very wide—sometimes one or two hundred yards.

There is no physical feature of our country more distinctive than this difference between two portions of the old sea-margin—the sudden bank and the flats below. Nor is there any more intimately associated with separate historic times. The precipitous rock or bank was the home of the Military Ages. Upon it they built their “Towers along the Steep.” The level lands between it and the sea were left for the Industrial Ages to occupy and reclaim. In this historical separation there were, no doubt, some exceptions.

Where the old sea-bottom had been sandy or muddy, it was speedily covered with sward. In such places it often became the site of such agriculture as was known and practised by the earliest human inhabitants. But generally along our exposed and rocky shores the spaces thus added to the land had a very different character. They had been swept for Centuries by the ice rafts of the Glacial Age. They had been covered with the boulders and stony rubbish which these rafts bore away from fretted and disintegrating shores. Upon such surfaces, when upraised, nothing but the rough forests of ancient Caledonia could find a footing. When these had been destroyed by fire or flood, peat mosses had been formed, or the land remained as hard and stony as when first it had been elevated above the sea. These old wastes and woods are now generally reclaimed. Very often they are the best fields upon the best farms. Very often they are the sites of comfortable Villas, or of thriving Towns.

Yet the processes by which this great change has been effected are out of sight and out of mind. The very peacefulness of the scene takes away all sense of Work, and all memory of the Workers. I speak from experience. I was born and brought up in a Castle which, somewhere about the Twelfth Century, had been built upon the top of the Old Coast Line, where the last of the Highland mountains slopes into the basin of the Clyde. It was the stronghold of the Clan Macaulay. They were descended from a younger branch of the old Earls of Lennox, and all through the Military Ages they had kept their ground in their Strong House of Arden-caple. From improvidence in expenditure—probably from joining in the new habits of civilised life before new values of produce had enabled them to afford it—their extensive possessions had been gradually alienated, and the last portion of them had been acquired by Lord Frederick Campbell in the latter half of the last Century. Not until after

they were dispersed had they produced any very distinguished man. It was reserved for them in our own time to give birth to the most brilliant Essayist, and one of the most interesting Historians in the English tongue. The Macaulays had lost their lands just before the Age of Industry had begun. They had not been improvers. Yet from the high Tower which in later times had been raised upon the massive foundations, and the dungeon-like apartments of the old Castle of the Clan, I used to look down in childhood upon a broad field of level and fertile land, between the Castle and the sea, grazed by "deep uddered kine"—sometimes loaded with golden sheaves—and sometimes rich in the untainted foliage, with its purple and yellow flowers, which used to make the Potato crop one of the most beautiful of all. Those were still the early days of steam navigation in the West of Scotland, and I recollect one river boat, which could be held in the cabin of some of the great Liners now yearly launched, which was called the "Pride of the Clyde." All the talk I heard was of the opening triumphs of the Engineer—of the future of navigation on the Ocean, and of the yet unsolved problem of the navigation of the Air. The two brothers Hart, from whom Mr. Smiles has borrowed some pleasant anecdotes of James Watt,<sup>1</sup> were favourite guests—simple, and self-made men from Glasgow, full of knowledge and of suggestion on every problem of science applied to use. My Father<sup>2</sup> was a mechanic, and not an agriculturist. He was himself an accomplished workman, making, with exquisite finish, various implements and articles in wood, and in ivory, and in metal. Nothing was ever said of the older, slower, and less exciting conquests over Nature, and over the waste condition in which her great natural Engines had left the encumbered soil.

And yet there was one tool-mark of the Re-

<sup>1</sup> *Lives of Boulton and Watt*, pp. 499, etc.

<sup>2</sup> John, seventh Duke of Argyll, then Lord John Campbell.



claimer which might have recalled his work. Running straight from the foot of the old Coast Line down to the sea, through the middle of the cultivated flats, there was one deep and open cutting, called by the country people the "Red Drain." It had been excavated out of the solid Old Red Sandstone rock, which there overlies the flanks of the Highland Schists. I had often been attracted to its edges by the wild strawberries, which nowhere else grew so large; and by the thickets of bramble in which the Whitethroat skulked and sang. But a chasm—in some places between seven and eight feet deep—with smooth sides of rock, not easily climbed, seemed to a child rather a formidable trap. Of its history and of its purpose I knew nothing—till old documents, in faded ink, have in later years revealed the story. It was the great Outfall by which the fruitful fields, I had so often looked over from the Tower of the Macaulays, had been redeemed from the condition in which they had been left by the Glacial Age, and by the tangled thickets of "Woody Caledon." The operation at the time had been the talk and the wonder of the neighbourhood, in a generation not long preceding that in which my childhood was spent. The Red Drain had been cut at a cost which was considered fabulous at the time—a time when money was as yet scarce in Scotland. The surrounding areas on both sides had been sub-drained and trenched at a further outlay, not less new and astonishing to the natives. Great roots and prostrate trunks of Oak and Fir had been uncovered in the operations. Loads of stones had been dug up, carted away, and built into dikes, whilst boggy holes and quagmires had been filled up and levelled. Without any mention of details, significant allusions to the change effected by Lord Frederick are to be found in writings published before the close of the Century. Thus we hear that land on which Cattle could not walk with safety, had, in 1794, been con-

verted into land firm enough to bear their weight.<sup>1</sup> Before this operation we are further told that not even a Dog could have run over it without sinking to the belly. This account, meagre as it is, testifies to a further and a later change almost as great as that which had already been accomplished in 1794. To speak of any one of the fields on the Estate of Ardencaple as sound enough to bear the weight of Cattle, would, in my earliest years, have been as absurd as to speak in the same language of the oldest wheat lands of Essex or of the Lothians. Over some 700 acres, every foot of which I knew, it is hardly conceivable to me, even now, where any marsh or bog can possibly have existed. Long before 1823 not a trace, and strange to say, hardly a memory had remained of their unreclaimed condition. The very perfection and completeness of the work had rendered it impossible to think of it as a work at all. It was another country, and in all its surroundings it may almost be said to have been another world.

This story of a particular case is the story of a movement which soon became general and simultaneous over the whole of Scotland. It is a vignette from a great Picture. It presents to us the starting-point,—the position and the character of those who began the race,—the triumphs they achieved, and the causes also which have led in our day to a very inadequate appreciation of them. Everywhere in Scotland, not only on the shores of the Old Coast Line, but on all the slopes of all the hills—on many of the great plains which were swamps and peat-mosses,—on every variety of surface which was covered with tangled thickets of Alder and Birch and Oak,—over large areas which had before been cultivated in spots and patches—the work of agriculture in Scotland has been the work of laborious and costly reclamation. That work was begun by the Owners as a pleasure and a pursuit, when as yet its

<sup>1</sup> Ure's *Agriculture of Dumbartonshire*, p. 27: Reports to Board of Agriculture, 1794.

economical results were doubtful, and when the outlay was as far beyond the means of the cultivating class, as the effects of it were beyond their comprehension and belief. It was objected at the time to such improvements that they cost many times more than the price of the "fee-simple" of the land;—that other land of much greater extent, and of better quality, might be bought for less than quarter—often for less than a tenth part—of the enormous outlay thus incurred. And all this was true. Such land was really made, not merely inherited or bought. It was redeemed from absolute waste, and rendered contributory for the first time to the sustenance of Man. Where the Snipe probed in quagmires, and the Badger burrowed under roots of trees, and under cairns of stone, very soon new ploughs were turning the furrow, and Cows of a newly created breed were filling the pails with milk.

The Pioneers in this immense work of reclamation were invariably the larger Landowners, both because generally they were the only men who, by intercourse with an older civilisation in the South, had acquired the spirit, and the knowledge, which are the moving influences of the world, but also because they were the only men who had any command at all over the capital necessary for the work. The last Macaulays seem to have been a perfect type of the true old Celtic school of men who thought much of their Chieftery, of their old connection with the Clan Gregor, and of the retainers whom they could send out to fight or reive in alliance with them,<sup>1</sup> but who thought nothing of the acres under their own power which could be made to bear the fruits of industry and of peace. And so when, after the Union, first of the Crowns, and then of the Parliaments, the possibility of living came to depend not on swords and dirks, but on ploughshares and the spade, their resources were

<sup>1</sup> Irving's *History of Dumbartonshire*, p. 424.



dried up, and they sank into irremediable decay. The roof of the old Castle of the Macaulays was falling in, and their once extensive territory had dwindled to a few farms, when the last of them, somewhere about 1765, had to sell the remnant.<sup>1</sup> The old coast lines, over which they had looked for centuries, and the wastes and morasses which they had valued only for purposes of defence, came into the possession first of my grandfather, and subsequently of his brother, Lord Frederick Campbell. This was the very year, more perhaps than any other definite date that can be named, when the first streaks of the Industrial Dawn were breaking into Day. Both in manufactures and in agriculture this was about the birthday of the new life in the West of Scotland. Fortunately, the place of such Chiefs as the Macaulays was very often taken—not by strangers, but by other Highlanders as Celtic as themselves, but who had kept in the stream of advancing civilisation—had enlisted in the Regiments of Industry,—and had opened their eyes to a wider horizon than the mountain battlements of Glenfruin. They were men who had carried on those best traditions of Scotland which had been embodied in the appeal from Chiefs to Owners, and who now, in the morning of a new day, devoted all the power, and influence, and wealth which had come from a wise rule over Tribe and Sept, and Clan, to the strengthening of an Imperial Crown, and to increasing the resources of a united People.

If such men had not thrown themselves into the new work, it would have been postponed indefinitely. But they did throw themselves into the work with an admirable spirit, and a high intelligence. Across a narrow strait of water belonging to the Firth of Clyde, the elder brother of Lord Frederick, John Fifth Duke of Argyll, was carrying on similar reclamations on a much larger scale upon his Estate of

<sup>1</sup> Irving's *History of Dumbartonshire*, p. 424.

Rosneath. There, on the same old Coast Line, Edward I. of England had held a Strength when he was attempting the subjugation of Scotland, and there, in the capture and burning of the Castle, one of the traditionary exploits of Sir William Wallace had been achieved. There the Glacial Sea had wound round the whole Peninsula—insinuating itself into intricate creeks and coves, where dead valves of the great Clam<sup>1</sup> are frequent—a shell fish now living in Arctic regions, where it is the favourite food of the Walrus, but which has finally disappeared from the shores of Clyde, along with the icy temperature in which it flourished. All the flats and ancient shores, corresponding with those of the old Macaulay lands, are now covered with fine timber, or converted into good arable soil, every acre of it planted and reclaimed during the same years. Men with whom I have myself spoken recollected the time when a favourite horse had been lost in a bog-hole which is now the most fertile corner of a spacious field.

Such operations were no matters of routine then. They were the beginning of a new era. They were the fruit of a new impulse set up by men whose minds had been awakened by contact with wide movements and Imperial interests. Lord Frederick was the first public man who brought the influence of Government to bear upon the systematic preservation of our neglected National Muniments. He was the first head of the newly founded Register House of Edinburgh; and in that great national Institution the benignant wisdom of his countenance is still preserved by Gainsborough's incomparable brush. Another brother, Lord William Campbell, was Governor of South Carolina, where so many Scotchmen and Highlanders had gone, or were going before the revolt of the Colonies. He was afterwards Governor of Nova Scotia, where he founded

<sup>1</sup> The *Pecten Islandicus*, a very handsome shell common in the glacial clays.

the Town of Campbeltown on the southern shore of the Bay of Chaleur, where that great Inlet is joined by the beautiful river, the Restigouche, which divides the Provinces of New Brunswick and Quebec. The eldest of the brothers, John, Fifth Duke, had begun life in the army, had fought at Dettingen, had learnt affairs under his two cousins, his most eminent predecessors, and from their friend Culloden. He was the second Lieutenant-Colonel of the Black Watch, and had done much to discipline them before their departure for Canada in 1757. He succeeded in 1770, and spent the rest of his life in devoted attention to agricultural improvement, dying in 1806 the oldest Field-Marshal in the British army.

Such were the men and such was the class of men who all over Scotland carried on and began and established the work of Rural Reform. It needed all their mental activity, all their enlightenment, all their influence, and all their wealth to make even a beginning. In almost every County it is the same story. In looking over the detailed Reports to the Board of Agriculture in 1794-95, it is impossible not to be struck by the great part played by the principal Landowners all over Scotland, in stirring up into a new life the dead and inert elements with which they had to deal. In the North the family of the Dukes of Gordon is remembered as the beginners of the work,<sup>1</sup> stimulated, as it is said, so early as 1706, by an Englishwoman, daughter of the Earl of Peterborough, who was himself a great improver in the South. In Ayrshire the Earl of Eglinton takes a high rank among the most energetic improvers of the country.<sup>2</sup> In East Lothian the Haddington family were eminent, whilst the Tweeddales also remind us of those earlier Hays who were the improving Tacksmen under the Abbots of Scone in 1312. In Fife the very ancient

<sup>1</sup> *Northern Rural Life*, p. 24 (D. Douglas, Edinburgh, 1877).

<sup>2</sup> Reports, vol. i., *Agriculture of Ayr*, p. 16.



title of Rothes acquired a new eminence in the arts of peace. In Banff an Earl of Findlater receives especial honour from all contemporary accounts<sup>1</sup> for his exertions both in agricultural and manufacturing industry. From the great County of Aberdeen, which had been terribly desolated by the years of famine at the close of the previous century, and a large area of which had actually been abandoned and thrown out of cultivation, we are told that to enumerate all those to whom its recovery, and subsequent advance were due, it would be necessary to give a complete list of all the gentlemen in the County.<sup>2</sup>

The class of capitalist Tenant Farmers had not yet arisen, or were only beginning to appear in the South and East. The introduction of one of this class from East Lothian into Ayrshire by the Earl of Eglinton, is specially mentioned as an epoch in the West. There also some of the smaller Proprietors had more means, and they early joined the race. But all over the West Country, and all over the Highlands, this class had little or no command of money. The extreme poverty of the country in the middle, and during the whole of the latter half of the last Century, seems almost incredible. Some of the oldest families in the Lennox, and some of the most considerable Landowners, were obliged to have recourse to loans when they were called upon to pay sums of the most trifling amount. The Dennistouns of Dennistoun, a Knightly family, so old, that their boast was that Kings had come from them, not they from Kings, in borrowing £33, 6s. 8d. from the Minister of Cardross, somewhere about 1720-5, had to grant a bond backed by two Glasgow merchants. The Napiers of Kilmahew, the most ancient representatives of an illustrious name, in the same Parish,

<sup>1</sup> Reports, vol. i., *Agriculture of Banff*, p. 13. The Findlater family is now merged in the Earldom of Seafield.

<sup>2</sup> *Agriculture of Aberdeenshire*, p. 75, Reports, vol. i.

were, in 1732, in much trouble about a bill amounting to £6, 5s. 3½d.<sup>1</sup> Illustrations without number could be given of the same kind. The whole circulating medium in all Scotland, at the time of the Darien scheme, was supposed to be not more than £800,000, and of this one-half was risked and lost in that unfortunate speculation.<sup>2</sup>

But although Scotland, at this time, was a country singularly poor in realised Capital, it was a country rich in everything that is the source and the fountain out of which Capital can be made. Scotland had an immense "Wages-Fund." For here we come upon distinctions of the very highest interest and importance. The "Wages-Fund" is a formal and scholastic phrase belonging to antiquated theories of Political Economy. The doctrine it expressed has been fiercely and successfully assailed in the interests of Muscle, and the opponents of the doctrine have made good a portion of their case. It is not true that the wages of Muscular Labour come only from realised Capital. That kind of Labour has a good right to vindicate its own inherent contribution to Value. Without its help no Value can be embodied, and no Capital can be gathered. Wages may be advanced for a time out of the savings of the past, but only in the confident expectation that they will be more than repaid out of the gains of the future. Wages therefore come out of Work, and Muscular Labour is a rightful sharer, to the stipulated extent, in the ultimate Value to which it contributes. It may fairly be said that, whilst standing in some aspects pretty nearly abreast in the fighting lines of Industry, Muscular Labour comes rather before than behind its comrade, Capital. It certainly can find, and has often found, employment where there has been little or no Capital—little or no money—whether accumulated in Banks, or in Shares, or in

<sup>1</sup> *Old Cardross* : a Lecture by David Murray, M.A., 1880.

<sup>2</sup> *Life of W. Paterson* : Chambers's *Biographical Dictionary*.

the more primitive investments of silver and gold hidden in holes, or kept in stockings. Money must be made before it can be saved or stored; and in the getting of money or of money's worth some kind of Muscular Labour is always of necessity concerned. But the truth is that both these sources of Wealth, whilst nearly equal in rank as between themselves, stand a long way behind and below another, which is nearer than both to the fountain-head. Capital is the product and representative of a prior and a deeper source. Men who have no Capital—no hoarded or accumulated money—will, nevertheless, employ Muscle, if they have a reasonable expectation that it can be hired for a stipulated Wage, and that the value conferred on mere physical work by the higher agencies of Enterprise and Forethought, will belong securely to those who wield them. But this reasonable expectation can only be entertained where the laws of Covenant and of Ownership are firmly settled. Such a system of Law therefore is the richest inheritance of any people. It is the true Wages-Fund. Like all other things of the highest rank in Nature, it is intellectual and moral—not physical or material. Here, as elsewhere, it is true that the things which are seen are temporal, but the things which are not seen are eternal.

Scotland was then poor, not only in money, but in money's worth, so far as actual productions were concerned. The habits and usages of her people were rude and ignorant. Like many other customs, their usages were tending more and more to mischief. Their miserable agriculture had been getting worse and worse. The small area of soil which alone had been cultivated was getting more and more exhausted from over-cropping. Their desperate local attachment was leading to reckless sub-division. In the Highlands ancient predatory habits had grown into such settled and almost acknowledged customs of robbery by violence, that



regular Blackmail rents were paid to the Robber Clans, as the price of exemption. But these usages—and others less conspicuous, but hardly less destructive—had never been allowed by the Parliaments of Scotland, or by her Judges, to corrupt her Law. Rooted in an ancient and noble civilisation, that Law had been not only kept pure, but, without departure from fundamental principles, had been adapted from time to time to new requirements of Society. Her poverty was thus, as it were, accidental, temporary, and superficial—arising only from ignorance of some natural laws, and of some natural products. The moment these became known, and in proportion as they came to be generally understood, Enterprise sprang up as if by magic. But Enterprise entirely rested, and could only rest on that confidence in the results of action, and in the fruits of Work, which itself again can have no other foundation than a complete system of acknowledged Rights and of sanctioned Obligations in all the relations of Industry.

Nothing, indeed, can be more misleading than the ordinary definition of the sources of Wealth, and no wonder—because before we can make clear to ourselves the sources of anything, we must begin with some clear idea as to what that thing is in itself. Wealth must be defined before its sources can be traced. Yet the common definitions of Wealth by the Political Economists very generally omit, or slur over, the one most essential element in the whole group of ideas which are represented in the word. I know of only one definition which goes straight to the point, and leaves a complete and satisfying impression upon the mind. It is the definition given in the searching words, “A man’s life consisteth not in the abundance of the things which he possesseth.”<sup>1</sup> Here the whole strength of the definition is concentrated in the last word—“possesseth.” No mere enumeration, or description of the kind of

<sup>1</sup> St. Luke xii. 15.

things possessed, however elaborate and ingenious, can ever convey the idea of Wealth, unless stress is laid, before all others, upon the one fundamental idea of Possession. Wealth may be defined to be—the Possession, in comparative abundance, of things which are objects of human desire, and which cannot be obtained without some sacrifice, or some exertion. There may be infinite variation in the kind of things which men desire. There may be infinite variation in the strength of that desire. There may be infinite variation in the quantities which constitute abundance in the eyes of a poor or of a rich community. But there can be no variation in the one fundamental conception of Possession as the root idea of Wealth.

The sources of Wealth must therefore be inseparable from the sources of Possession. We all know what these sources are. In early and rude societies the mental and physical qualities which make men Chiefs and Leaders, are the powers which enable them to take, and to give, Possession. As society advances these powers are translated into Law. This, then, becomes the source and the guarantee of all Possession. It is in this august name that we find the ultimate source of Wealth. It is a source, like all other ultimate sources, which lies in Mind—in the settled Jurisprudence of a well-ordered Commonwealth. Compared with this, nothing can be more poor and meagre—nothing indeed can be more confounding and confusing than the stereotyped definitions of the sources of Wealth. Land, Labour, and Capital, are the orthodox Three. In this enumeration the deepest source of all—Possession—is either omitted altogether, or else it is hid under a word which does not suggest it. Labour of the Brain is confounded with Labour of the Hands. Capital is treated as something separate from both, which it certainly is not. Capital is the purest representative of Mind, because our very conception of it turns on special acts of Purpose and of Inten-

tion in the disposal or use of Income. Land is a most confusing word if it be intended to designate the whole external world. The definition, therefore, altogether is scholastic and artificial in the highest degree—teaching nothing, suggesting nothing,—because none of its distinctions correspond with such great dividing lines as exist in Nature. One of these lines runs along the seeming gulf between Mind and Matter, and another between our own share in both of these, and the boundless volume of them which is external to ourselves, but with which, nevertheless, we have close relations. These dividing lines are familiar to us all—in our thoughts, in our actions, and in our language. They seem to point to a better Three than Land, Labour, and Capital. Mind, Matter, and Opportunity, would be the amended list. Mind is that which we know—as we know nothing else. Matter is that which is ours also in Muscle, and in all that it acts upon, or that re-acts on it. Opportunity is a convenient term for every kind, degree, and variety of condition, and of circumstance which helps to stimulate our desires, to clear our aims, or to facilitate the attainment of them.

These being the Three great sources of Wealth, Scotland was, by nature, rich in two of them, and was every day becoming richer and richer in the Third. In Mind there was no better fibre in the world than the fibre which had been spun out of her old amalgamated races. Mind among them might be mis-directed and wasted, or it might be sleeping. But it was there—with an immense and unknown Potential Energy. It had been shown for generations in all the special faculties appropriate to the Military Ages. It had now caught the fire which burns in mechanical genius, and in peaceful enterprise. So, in like manner, Scotland was rich in the raw materials of Nature, which it is the function of Mind to work with, to work upon, and to subdue. Her country was soon



found to be full of the savings hoarded in the depths of Time, the great accumulations of Energy which had been laid up in her stores of Coal and Iron. Her agricultural and pastoral surfaces were rough and unreclaimed, but they were not poor. Even the Glacial Ages had done Scotland enormous good—for their great Planing Engines, though they had left, here and there, tough and tenacious clays, had also scattered everywhere the materials of a better soil. Nor were these two sources of Wealth all that had been prepared for Scotland in starting her in the race of Industry. The Third, and the last of the Three great sources of Wealth, Opportunity, had been secured and opened up for her in that one fundamental condition on which all the possibilities of Opportunity depend. This was the condition without which no opportunity can be seized—no design can be formed, no enterprise can be undertaken—the condition, namely, of an ancient, accepted, and well-defined system of Law and of Jurisprudence. Men knew their own rights and their own obligations, because these rested on written and recorded Instruments, and because the exact force of all of them had been settled and applied through centuries of Judicial interpretation. As in the Kingdom of Nature the invariableness and certainty of her Laws are the necessary Implements of Purpose and Design, so in Human Society there can be no other foundation for Industry and for Enterprise, than Laws accurately defining, and Courts impartially enforcing, all the rights and all the obligations of men. There is no place in Science for the Slattern or the Sloven. In dealing with Nature the loose reasoner, and the inaccurate observer, soon find their level. So it must be in every Political Society which desires to preserve the germs of life, and to keep open to men the infinite opportunities of knowledge.

If, in the purchase or inheritance of land from old Owners of the type of the Macaulays, such new

Proprietors as Lord Frederick Campbell had not been able to trust in the validity of the Titles by which Property had been conveyed for seven or eight hundred years—if the words of Charters, which carried the full rights and powers of Ownership over Moors, and Marshes, and Woods, and Peateries, and over all the other enumerated varieties of surface, had not, during all these Centuries, been uniformly sustained as living and truthful words, not only in all the decisions of law, but also in all the acknowledged obligations and practical transactions of life—then, such reclamations as those of the old Coast Line on the Firth of Clyde, would never have been undertaken, and Scotland would have remained even more waste and wild than she had been in the days of Malcolm Canmore.

But direct, rapid, and costly reclamations of this kind were not the only, nor perhaps the most important, application of that great Wages Fund which consists in the confidence of men in the security of all legal rights, and in the enforcement of all legal obligations. Land in Scotland had for centuries been almost universally let on “Tacks” or Leases. These varied more or less in their conditions and in the period of their duration. But one essential fundamental principle was expressed and embodied in them all, viz., that the Owner lent his land to the Occupant for a time, and for a time only. At the end of it the right of disposing of the land on new conditions reverted to the Owner. This principle extended as a matter of course to Sub-tenants, if there were any such. They could not have any higher or larger right of possession than those under whom they held. As water can rise no higher than its fountain, so derivative tenures cannot rise above the tenures from which they are derived. We have seen how, under the advice of Culloden, many of these Sub-tenants had in the Hebrides been raised from the condition of Tenants at Will to the higher condition of Tacksmen, more

than thirty years before the operations of Lord Frederick and of his brother in Dumbartonshire. But this was before the new practices of Agriculture had begun, and before its new resources had been placed at the disposal either of Owner or of Tenant. All that these Leases therefore did, in this direction, was to encourage definite lengths of tenure for such industry as was then understood, leaving the Tenants to pick up any new methods which might arise. But this is precisely what men of that class, in that stage of society, never do. They run on from generation to generation in the ruts of custom—hating every novelty and blind to every suggestion. One thing, nevertheless, the system of Leases did which was in itself invaluable. It established definite breaks in the continuity of occupation, and therefore saved the country from a perpetuity of ignorance. That feature in Leases which is often made an objection to them by the ignorant, was the very feature that gave saving entrance to the new life, and to the new knowledge, which would otherwise have been excluded for generations. As Leases had been given during 400 years at an immense variety of dates, it followed that everywhere, all over Scotland, at all times, a crop of Leases was coming to an end; and the necessity of making new arrangements for a new Tack gave precisely that kind of opportunity which Mind requires for the discharge of its special functions in directing Muscle. As Longfellow says of the awakening Song of Birds all round the Globe, “’Tis always morning somewhere,” so it may be said of Scotland as regards these opportunities of improvement, that all through her Counties and Parishes they were arising everywhere. Thus, for example, the Leases given by the advice of Culloden on the Argyll estates, between 1739 and 1750, were expiring during the very years between 1759 and 1770, when the enthusiasm of new discoveries and of new aspira-



tions was at its height, and when it was beginning to transform the whole conditions of the National Industry in all its branches.

Among these transformations there was one affecting Agriculture, the value of which is now confused under an ignorant form of sentiment. It consisted in the steady but gradual disappearance of Township farms. These were farms tenanted by small groups of men, using their pastures in common, and cultivating their arable lands in Run-rig. I designate the sentiment in favour of these old Townships as an ignorant sentiment, because it is mainly founded on a misunderstanding as to their real nature. They were not farms under a common management for the equal benefit of a community. The flavour of communism, which makes the memory of them popular with some theorists now, is a flavour which comes from nothing but mistaken analogies. The Township farms were not what we should now call Club-farms. They were not held nor managed by the representatives of a community on behalf of the whole. They were mere groups of individual men, each man having his own individual property in the Cattle, and his own exclusive share in the arable areas of land. The principle of occupation was the principle of pure Individualism—only, under such conditions that none of its benefits could arise. The common grazing might contain the very best land of the farm, if only it could be reclaimed. But no one of the Tenants could exert his mind or his muscles in reclaiming a single morsel, because it would have limited by so much the grazing of the others. Neither could any one Tenant, more intelligent than the rest, and seeing that the common grazing was overstocked, gain anything by limiting the number of his own beasts, because all his more ignorant neighbours would at once add a corresponding number, and so keep down the whole herd to the old starvation point. Neither, again, could any of the Tenants, even if they had the capital

and the knowledge, begin to establish a better breed, because the good breed could not be kept separate from the bad. Thus all were kept down, even as regarded the Cattle and the grazing, to one level, and that was the level of the stupidest.

The case was if possible worse as regarded the arable land. Each Tenant had indeed his own scattered patches exclusively to himself, so long as he had them at all. He got no help, if his crop failed, out of any share in the comparative abundance of others, nor on the other hand did he share with others in any fortunate excess. In all these ways, and in others, he was an individual farmer, and nothing else. But he was not allowed to benefit by any individual wit, if by chance he had it, as regarded the possibility of improvement. He had no inducement to dig deeper, or to manure better his little patches, because all the benefit of his labour would probably go next year by lot to some less intelligent or less industrious neighbour. Then, with other kinds of improvement even more important, the whole system was absolutely incompatible. If one man, seeing the starved condition of the Cattle, wished to make and store a little hay for winter feeding, he had no means of doing so. The moment the harvest was over, the whole area of the arable land was turned into a common pasture field for all the Township. No man could enclose a morsel of ground to save a bite of hay. No man could drain, lime, or otherwise improve any portion of the farm, because, although it was exclusively his own to-day, it would be as exclusively another's to-morrow.

Such was the stupid and ruinous system on which land was tenanted not only in the Highlands, but all over the Lowlands of Scotland during a great part of the Eighteenth Century, and in some cases down to our own time. It was the same in England only a little earlier, and Lady Verney has disinterred the curious fact that one Parish in the County of Buckingham, within a few hours'

journey of London, continued to be occupied in Runrig for more than 400 years—from 1441 to 1845, when it was divided into individual holdings by the external authority of the Enclosure Commission.<sup>1</sup> Although now banished from every part of Scotland, except where it yet lingers in the most distant and poorest Hebrides, I have myself had to interpose for the abolition of it on the mainland of Argyllshire about forty years ago. As late as the middle of the last century it was as general on farms within sight of the great Lowland Towns of Edinburgh, Glasgow, Paisley, and Greenock as it was round the more Highland Towns of Perth, Dundee, and Inverness. Nothing but an unquestioning and unquestioned adherence to the rights of Ownership, operating steadily but gradually through the opportunities afforded to awakened Mind by the termination of Leases, could have redeemed the country from this system. The people themselves generally clung to it with a dull and blind tenacity. Nor is this surprising. It was a system of which all the parts so hung together, and which as a whole was so rooted in all the routine habits of daily and yearly life, that not one stone of it could be touched without the whole structure tumbling. Any change involved a total change in the prospects and in the life of every family concerned.

Under such circumstances the initiative never is, and never can be taken by those who live under such a yoke of custom. It is so with all of us. Our eyes and our lips can be opened only by the touch of a live coal from some altar other than our own. There was a race of Scotch Judges in the last century whose witty sayings, expressed in the broadest native Doric, were long the amusement of the legal profession in Edinburgh. One of them, on hearing a Counsel plead on behalf of his Client that he had acted in ignorance of the Law, interrupted the

<sup>1</sup> Article on "Allotments," by Lady Verney, in *Nineteenth Century*, June 1886.



pleader at once, saying, "Mr. ———, the Law tak nae cogneesance o' stupeedity." But if Judges can take no cognisance of stupidity, Historians are compelled to do so, because mental blindness is a perpetual wonder from generation to generation as we trace the movements of Mankind, whether in the progress of civilisation or in the backslidings of corruption and decline. There is a profound passage on this subject in the Apocryphal Book called the Wisdom of Solomon, in which the slow progress of our knowledge in Natural Things is set forth as diminishing the wonder, and yet enlarging the estimate, of our ignorance of the Spiritual World:—"For the thoughts of mortal men are miserable, and our devices are but uncertain. For the corruptible body presseth down the soul, and the earthly tabernacle weigheth down the mind that museth upon many things. And hardly do we guess aright at things that are upon earth, and with labour do we find the things that are before us."<sup>1</sup>

It is fortunate, however, for Mankind that very often new truths are borne in upon us by the mere weight of external circumstances, not as the result of any "musing" at all, and when we ourselves may be as blind as ever to "the things that are before us." And so it was with the cultivating classes in Scotland. Great, and indeed complete, as the change was which came about within a time comparatively short, we must not exaggerate the rapidity of the process. It had begun, as we have seen, in the Border Counties after the Union of the Crowns, more than a century before the time we are now considering, and the displacement of the Military Classes there when the Border Wars ended, had been connected with the poverty and distress which were conspicuous in Scotland before the Union of the Parliaments. It received a great impetus after that event, and about 1760 it went forward at an accelerated pace.

<sup>1</sup> Wisdom of Solomon, ix. 14-16.

But even in the last decade of the century, during the years when the *Statistical Account* was being compiled, and the Reports to the Board of Agriculture were being drawn up, large areas of Scotland were either still occupied in Runrig or were just escaping from it. The causes which at once facilitated the change and forced it on, were all as purely natural as any physical causes, although they operated in and through the Wills of men. In the first place, Englishmen had discovered that the small Black Cattle of Scotland could be fed up to a much greater size, and made the very best of beef. The price of them consequently rose without the smallest exertion on the part of the Runrig Tenants. Moreover, the Dealers who bought them, and the English Farmers who fed them, were known to make a further and a much larger profit upon them. Scotch Tenants and Scotch Landowners very naturally began to think that a much larger share of this profit might be secured to the Producers in Scotland by taking some care to bring them to market in a less starved condition. From this instinctive desire, and this very rudimentary suggestion, everything else that happened necessarily followed. To improve the breed of Cattle there must be the means of separating the good from the bad. To feed them better there must be hay. The same necessity which applied to Cattle as a supply of meat, applied equally to the new management of Cattle as a source of Dairy produce. Cows under the old system, being small and half-starved, gave but little milk, and for a very short time in the season. With better food and, above all, with a continuous supply of it, their Dairy produce in milk rose in quantity by 150 per cent., and could be continued as much longer in point of time. All this depended on better breeding and better feeding. To have hay, even wild hay, there must be enclosures, still more when artificial grasses began to be introduced. Then, along with them came

the new Green or Root Crops, and the system of alternating these with Cereals.

Every step in this ascending series of innovations depended on and involved the one essential preliminary of enclosures. Nothing could be done without them. Special and separate areas of land devoted to special and separate purposes, constituted the new source of power. It was the same principle as that which flashed on the genius of Watt when the thought occurred to him of the "Separate Condenser." In the older Engines one and the same vessel, the Cylinder, was used for more than one mechanical purpose. Expansion and Condensation were effected in one common chamber. Heat was wasted; power was lost. The great principle of the Division of Labour was the principle of Watt's discovery. It is a principle which runs through the whole of Nature. Man in adopting it has been only following her great example. It now penetrated every nook and cranny of the Industrial world; it took possession of the new Rural Economy by the operation of an universal instinct. The grand secret of its success lay in the scope it gave to Brains, which are always personal—individual—and liable to be unequal in infinite degrees. Especially in an age of awakening, the aptitudes of Mind, and the receptiveness of Intellect, and the energies of Enterprise are all pre-eminently individual. It is their function to raise individual men above the common herd, and to enable them to throw off the stupidities of Custom. Common and undivided lands were the Castles and Fortresses of all these stupidities—the strongholds in which they held out the longest. But everywhere their roofs were falling in, and their walls were being undermined—just as about the same time, the old Towers of the Macaulays became uninhabitable.

Enclosures, with all the other works of reclamation which depended on them, became the universal occupation of all the Owners of land as opportunity



offered. Like everything else in Scotland which was valuable, it was nowhere absolutely new, because Parliament, even during the Military Ages, had encouraged the fencing and protection of woods and plantations. It had, moreover, recognised afresh, in recent years, the value to be set on the concentration of individual interest and of individual motive upon landed property. In some places, though not generally, the Ownership of land, and not the Occupancy only, had been held on the fashion of Runrig. That is to say, certain areas of land belonged, in small lots, to different Owners, and these were re-divided from time to time. This involved the same evil, and although it did not extensively prevail, yet wherever it existed it affected indirectly all surrounding properties. It did prevail, however, extensively in Annandale, where Border wars had long rendered property valueless. Accordingly, in 1695, it had become sufficiently mischievous to attract the attention of the First Parliament of King William III., and an Act was passed for remedying it—on the significant Preamble that “great disadvantage was arising to the whole Subjects from lands lying in Runrig,” and that “the same was highly prejudicial to the Policy and Improvement of the Nation by planting and enclosing.”<sup>1</sup> Wherefore, power was given to every one having an interest in such property, to call for a separation and final division of it under the authority of the Sheriffs. No such Act was needed for the abandonment of Runrig in respect to Occupation, because this could at any time be effected by virtue of the ordinary rights of Ownership. The farms occupied by several Tenants, and grazed or cultivated by them according to the habits and knowledge of the time, were so occupied and cultivated only under the terms of Covenant. The terms of that Covenant might be altered from time to time. There was no legal impediment in the way.

<sup>1</sup> *Act. Parl. Scot.*, vol. ix. p. 421 (5 Will. III., ch. 23).

No Legislation, therefore, was required. The saving effects of permanent divisions and of individual farming were only just beginning to be understood. Rude and unsubstantial fences had from time immemorial been erected to divide the "Infield" from the "Outfield" land—the area which was under crop from the area which was uncultivated. The same practice had now to be extended to the internal divisions of the arable land, and to the immense areas which were being reclaimed and brought within that description by reclamation from the wastes of common grazings. In the district of the Lennox, typical from its geographical situation bordering on both Highlands and Lowlands, the progress of Enclosure was so rapid and continuous that in 1794 the Report says, "Not a year passes but several thousand acres are surrounded with fences."<sup>1</sup>

In the fine district of Annandale, the old home of the Bruces, the evil of Commons seems to have been specially enduring and obstructive, since owing to them the greatest exertions of individuals could not make the country capable of modern cultivation.<sup>2</sup> Yet in 1794 scarcely a single Common remained undivided, except in the case of lands belonging to the Royal Burghs. As compared with individual Proprietors, either the intelligence of these Corporate Bodies was less, or their difficulties were greater, since, it was said, "they alone could claim the privilege of keeping waste tracts of the country useless to mankind,—an eyesore to the benevolent passenger, and fit only to indulge the indolent occupier in brooding over his poverty and his turf-fire."<sup>3</sup>

This passage is curious, and directs our attention to a fact of some interest. The Old Royal Burghs in Scotland were in some cases not inconsiderable Landowners. They possessed certain areas of land, fishings, and various other rights of property, as other Landowners did, by Charters from the Sovereigns

<sup>1</sup> *Agriculture of Dumbartonshire* ; Reports, vol. ii. p. 19.

<sup>2</sup> *Agriculture of Dumfries* ; Reports, App. p. 22.

<sup>3</sup> *Ibid.*

who had the power and the right to give them along with the Municipal "liberties" and privileges which rested on the same Instruments. Thus the same early Sovereign of Scotland, William the Lion (A.D. 1165-1214), who gave by Charter to the ancestor of Robert Bruce the great Estate of Annandale, also erected the Town of Ayr into a Royal Burgh, and granted it certain lands, which are carefully described by boundary names as purely Celtic as any now used in the heart of the Highlands. It was specified that out of this area belonging to the Town each Burgess might reclaim six acres out of the Wood or Forest "to make their own profit thereby."<sup>1</sup> This would seem to point to an unlimited power of individual appropriation corresponding to the number of Burgesses. But practically the use of these Burgh lands was generally the use of pasture for the benefit of the Burgesses as a Community, and for centuries they continued to be so used in common, by all who acquired the position and rights of a Burgess.

It was natural that under these conditions there should be great difficulties in changing the mode of use. But if the Burghs were in 1794 behind in the improvement of their lands, this reproach has been removed long ago. Burgh property in Scotland was called the "Common Good," and the Burghs soon found out by the example of other Landowners around them that the best way of consulting the "Common Good" was to give up common Occupation and resort to individual holdings. Accordingly the landed property of the Burghs has long been managed on the same principle on which it is managed by individual Owners,—except that the public interest of the Community has led to a more rigid and universal system of letting by open competition, so as to secure the highest possible rents. Every tendency to let land on terms below the market rate was very naturally regarded as

<sup>1</sup> *National Manuscripts of Scotland*, Part i. p. 21.



simply a cover for jobbery. Early Statutes<sup>1</sup> forbade Burghs to grant Leases for a longer term than three years, and the object of this prohibition was to secure to the Burgh the growing value of land, and to prevent the transfer of that growing value from those in whom Ownership resided to those who had no other right than that of temporary Occupation and of special bargain. This principle was finally embodied in stringent legislation by an Act passed in 1832,<sup>2</sup> which prohibited all feuing, alienation, or leasing of any part of Common Good of Burghs except by public roup—that is to say, except at the very highest attainable rent or feu-duty. When, therefore, Burghal Owners discovered, as other Owners did, that lands enclosed, and otherwise reclaimed from slovenly and promiscuous uses, immediately rose in value, and afforded at once double or treble the former rent, they joined in the great industrial race of enclosure and reclamation by which the whole face of Scotland has been transformed from being one of the poorest to being one of the best cultivated countries in the world.

The principle thus laid down by Parliament, that the value of all property belonging to Corporate Bodies must always be tested by competition, and let by public roup at the highest market rent, is obviously the only safe principle in the management of a “Common Good.” It is undoubtedly the principle on which all land would be let which falls directly in the hands of the State.<sup>3</sup> Private Owners can and do depart from it with more or less advantage, because the preferences of character and the considerations of sentiment which lead an individual Owner to let his farms to one man who can give less, rather than to another man who can give more, are preferences which, in his case, must always have their natural limits, and which,

<sup>1</sup> Such as 1491, c. 19, *Act. Parl. Scot.*, vol. ii. p. 227.

<sup>2</sup> 3 Geo. iv. cap. 91.

<sup>3</sup> Mr. Henry George has repeatedly admitted that the State must let its land by auction.

whether wise or not, are at least always generous and can never be corrupt. In the case of Public Bodies, on the contrary, such preferences are quite sure to be the result of intrigue and of corruption. Accordingly it is certain that in the centuries when publicity was unknown, and when the government of Burghs was far from pure, the "Common Good" had been often jobbed and wasted. Repeated Acts of Parliament were passed during the Sixteenth and Seventeenth Centuries, recording and vainly endeavouring to check this evil.<sup>1</sup> A strict adherence, therefore, to the principle laid down in the Act of 1832 was the only remedy—the principle, namely, of free and open competition in the hire of land or of other property belonging to all Public Bodies.

It is one of the innumerable benefits of Private over Public Ownership, that it is not bound by such rigid necessities. The free choice of persons in selecting Tenants, is one of the most essential of its powers. The highest offerer is not necessarily the best Tenant, except under an equality of other conditions, which is rare. Yet even in respect to land belonging to private Owners, the larger interests of the public are at least presumably in favour of the same principle. The rent of agricultural land must ultimately be determined by the produce. The man who can pay the highest rent is presumably the man who can turn out the largest amount of produce. This he can only do by superiority over other competitors in some faculty or aptitude of Mind, or in the possession of Capital which has been stored by the foresight of himself, or by others whom he represents. There are wonderful bits of faculty and of aptitude connected, each of them, with some corresponding bits of Brain, which in Agriculture, as much as in any other pursuit, tell upon the result. It may be a faculty for estimating

<sup>1</sup> *Observations on the Law and Practice in regard to Municipal Elections in Scotland.* By J. D. Marwick, LL.D., pp. 336-71.

the "points" in the breeding of domestic animals on which all progress in utility and in value depends. It may be some inborn and instinctive aptitude for the best methods of manufacture in the artificial productions of the Dairy—it may be merely the faculty of thrift in everything, and of turning everything to the best account—it may be any one, or any combination of these, that will enable one man to pay for land a rent much higher than can be afforded by others who have no similar qualifications, and who are the blind followers of routine. Private Owners may, and continually do, prefer some man who is inferior in all these respects, and they may do so wisely on account of personal or hereditary associations. But in general the interests of agricultural production, which on the whole are the interests of the nation, are to some extent sacrificed thereby. It can never be for the public interest that dull men should be preferred to men of ability, or men with no means to men who have adequate capital. It is only when the extreme test of competition for the holding of land is applied to men who are all equally poor, and who seek for it as a means of bare subsistence, that it ceases to have any value in the public interests. Yet even in this case, those who think that the hire of land should be dealt with as a matter of charity, will find it difficult to defend the rejection of several candidates who offer more, on behalf of some favoured one who offers less. It would be a strange exercise of benevolence not to prefer those who, from the very fact of being the most needy, are willing to give the most, because they are satisfied with the smallest residue. Accordingly, the Irish Land Act of 1880 incites and encourages the Cottier Tenantry of Ireland to exact the last farthing they can get for the sale of their interest to any new Tenant. Private Owners had made rules modifying the severity of this principle in favour of incoming Tenants. But the coarse hands of the State, when it intervenes, have



nothing to fall back upon except the principle of Competition in its extremest form.

This system when applied to conditions of hungry and necessitous competition which are in themselves disastrous, can end in nothing but the ruin of agriculture and universal pauperism. Under such circumstances there is no presumption in favour of the highest offerer. He is the hungriest, and nothing more. It would be a bad principle of selection applied to a morbid condition of society, and securing further degradation by systematic preference of the most unfit. This was the actual result in some parts of Ireland—not at all as the consequences of English law or of English customs, but, on the contrary, as the natural fruit of the most genuine old Celtic habits and traditions.

The total absence of any elevating guidance, or of any intelligent control, over men with a low standard of living, and a narrow horizon of desire, can never end in anything but disaster, whatever be the avocation or pursuit to which such a system is applied. Most disastrous of all must it be when applied to that industry and pursuit which comes before every other in the progress of nations. Unlimited licence to sub-let and to sub-divide, and to multiply down to the level of a potato diet—a perfect jungle of sub-tenures—one set of lettings beneath another, and single “rigs” below the lowest—all let to the highest bidder—all except the first, from year to year only—and all interposed for long and indefinite periods of time between the Owner and any possibility of improvement or even of regulation—such a system was perfectly adapted to banish Mind, in all its higher faculties, from the business of agriculture, and from the building up of Society upon foundations even tolerably safe. Ownership lost all its virtue along with all its opportunities, and all its power. And all this system was purely

native—purely Celtic. The Middleman holding tracts of lands for Life or Lives, and living on the competitive rents of very poor and very ignorant people, all struggling for a bare subsistence, is the nearest possible modern representative and analogue of the old Irish Chieftain nourishing a crowd of Septs as his servitors and retainers, and living in his turn upon them, by their help in inter-tribal wars, and in peace “by coign and livery,” “cosherings and cuttings.” The abuses of the system adopted by the Middlemen were multiplied and intensified by the abuses which grew up like weeds among all below them. There was one hideous practice of Tenants of Ireland, unheard of in any civilised country in the world, to which they were stimulated by the high prices of wheat during the many years of war towards the end of the last, and the first quarter of the present century. This was the practice of burning the land—setting fire to the finest grass lands, whereby the best mineral and vegetable ingredients of the soil could be used up and carried off in a few years of enormous and exhausting profits. In vain had the Irish Parliament passed one enactment after another to prohibit and punish this barbarous waste. It was only one of a thousand other mischievous practices arising out of the paralysis of the powers of Ownership. Laws are useless when they cannot be enforced, and they never can be enforced when the power to practise and to compel obedience is not in the hands of those who have a motive and an interest in doing so.

Like many other noble words that are used without thought, the word Custom has suffered degradation. It has a venerable sound—reminding us of harmless ancestral usages, loved, regretted, and commemorated. It has its own place, too—and a very high place—in the most civilised systems of Jurisprudence and of Law. Neither oral nor written Covenants between men, however definite,

can express the whole of the conditions which they imply. Many of these conditions may be, and indeed must be omitted,—not at all because they are inapplicable, but, on the contrary, because their application is of necessity understood. Customs so universal or so general, as to occupy this rank, are not opposed to Covenant or Contract as the basis of all relations between men in matters of business. They are essential parts of every system of Contract, in so far as they are evidence of things mutually understood. In the oldest Charters in Scotland there are many references to customary Use and Wont, to be ascertained as a matter of fact, in the determination of the most important rights ; as, for example, in the extent and boundary of lands, or in the extent and limits of the privilege of fishing. But nothing can be more different from this high idea of Custom than that other idea which consecrates under the same name every stupid practice and every abuse which may creep in and establish itself among the ignorant or the weak.

The wonderful burst of Industry which transformed the whole face of Scotland in the course of the Eighteenth Century, and especially during the latter half of it, could never have arisen if her ancient Law had not been kept pure and uncontaminated from such debasement. Everything that takes from Knowledge its initiative by depriving it of Opportunity—everything that discourages Enterprise by accumulating against it unknown elements of uncertainty—is a barrier—often an insuperable barrier—to improvement. Fortunately for Scotland the rights recognised by Charter on the one hand, and conveyed by Covenant on the other, had been kept clear and definite. If the property conferred on Corporations was longer left without improvement, or if it had been wasted and dispersed, this result had only arisen because Corporate Bodies can never in such matters represent, except very imperfectly, the natural influences and motives



which animate Individual Owners, and which make their aspirations and desires coincident in the main, and in the long-run, with the public interests. No such law was ever thought of for them, as the law which was ultimately passed for Burghal Owners, laying down an universal and unbending rule that nothing should be let except by roup, and at the highest rates determined by competition. On the contrary, in a memorable Act passed at a memorable epoch in the national history, Parliament had called upon all Landowners to remember that in the disposal of their lands they held, and were free to use a large and a wide discretion over the choice of their Tenants. Upon the loyal exercise of this power, the Monarchy had relied in its long contention against the most formidable political dangers. Upon the wise and enlightened exercise of the same power the Nation now again relied, not less securely, for its advance from famines and poverty to comfort and to abundance, and from comparative barbarism to a high and advancing civilisation. As in the Sixteenth Century Landowners were called upon not to let their farms and "rooms" to men ignorant of their duty to the National Government, so now, in the dawn of the Industrial Ages, they were trusted not to let their lands to men ignorant of, or deaf to, the new duties, the new demands, and the new opportunities of their day.

On the other hand, as the progress of agricultural knowledge had been slow even among the educated classes, it could not fail to be much more slow among those who had no education except that of tradition and routine. It was not possible, and it would not have been wise, if it had been possible, to bring about too suddenly the immense changes which were absolutely required. Nothing but the free play of individual motive,—of knowledge, of enterprise, and of personal relations,—could have worked with the elasticity, and with the variety of application, which such circumstances eminently

demand. And never, perhaps, in the history of any country was a more signal illustration given of the inestimable value, on the one hand, of a strict and clear definition of all legal rights, and, on the other hand, of perfect individual freedom in the handling of them. In the beginning of the century, by far the largest part of the country, not only in the Highlands and in the Borders, but also in the Lowlands, was unenclosed, unimproved, and cultivated, or rather wasted, by groups of Tenants whose relations with each other were an insuperable obstacle to every reform. At the end of the century all this had been reversed. By far the largest part of the country had been or was being enclosed, and improved, or for the first time reclaimed. The farms had been generally let to individual Tenants, free to change and to adapt their management without let or hindrance from slower "neighbours," or from more ignorant or more obstinate partners.

And all this great change—great in itself, but greater still from the opening it gave to a continuity of progress—had been effected without any disturbance, or commotion, or serious discontent. At one time in the wilds of Galloway alone, there is some record of bands of men going about the country pulling down the newly erected dikes, just as in much later times bands of men in the West of England went about breaking the new machines which were another of the instruments of advancing agriculture. But this excitement in Galloway was transitory and local, not unconnected with the Celtic origin of the "Galwegians," who in the days of the early Monarchy were always addressed as a separate people from the Scots. But here, too, as elsewhere, the work of improvement was speedily resumed, and went on with that sure and steady pace, and with that silent and peaceful development, which are the sure indications of healthy organic growth.

And this is exactly what it was, and what the

progress of Nations must always be, if it is to be great and lasting. It was not a mere burst of speculation like the South Sea Bubble, or even as the Darien Scheme. It was a general awakening of Mind, directing stronger Muscle, and taking advantage of new and boundless horizons of Opportunity. All ranks and classes—all orders and conditions of men—took part in it. It was a general advance all along the line. The rising industry of the Towns was ready to absorb the overflowing idleness of the country. The rising activity and the increasing knowledge of the agricultural classes were ready to supply all markets as they had never been supplied before, and to feed as they had never been fed before, all who came from Potato patches to enlist in the ranks of industry. Many of those who did so were continually returning to their old homes with sums of money which enabled them to take their place among the new Tenants of single, undivided, and therefore unwasted, Farms. All values were rising, partly from a change in the value of money, but mainly from a rising demand which even an increasing volume of production could not adequately supply. Muscle was among the articles which had a rapidly increasing value, and this was one of the many simultaneous adjustments, due to natural growth, which made all the changes fit into each other, and work with so little friction or disturbance.

Great distress had arisen in the Seventeenth Century from the displacement of the military population out of the Border Counties, after the Union of the Crowns, because at that time the progress of industry had not, either in town or country, reached a point which enabled it to afford employment. But in the Eighteenth Century, after the Union of the Parliaments, the ranks of the Industrial Army were never full. Every recruit was welcome, and every soldier was paid far better than ever he had been paid before,



even by the most successful raids for cattle. So early as 1730-35, Captain Burt found that about Inverness every young fellow with any genius for his trade or business, and with any spirit of enterprise,<sup>1</sup> was looking and going for employment to England or to the Low Country. All over the Western Highlands the rising industries of the Clyde were the great centre of attraction. They were like a powerful magnet waved over an area full of particles of iron. Even when smothered in earth and sand, these particles will respond to such attraction,—heaving aside the inert particles around them, and moving like Ants in an Ant-hill, until the whole grainy mass seems alive with creatures. Such was the effect produced, only more slowly and more gradually, by the magnetic attraction of the wages offered in Greenock, Paisley, and Glasgow,—and all over the country in works of Reclamation—to the men who had been gathering in the glens and hills of Dumbarton and Argyll. The Minister of one of these Highland Parishes tersely and graphically describes the condition from which this great opening relieved them, when in his Statistical Report he says, “Idleness was almost the only comfort they enjoyed.”<sup>2</sup>

It is a striking illustration, too, of the close inter-communion between all classes in Scotland during this great period of national advance, that when we look into local records we find that Land-owners had often much to do with the rise of Towns, whilst there are conspicuous examples of the dwellers in Towns taking the lead in agricultural improvements. Thus, for example, the earliest germ and nucleus of the present Town of Greenock lay in a little Village called Crawfordsdyke, part of the Barony of Crawfordsburn, which belonged to a family of the name of Crawford. Immediately after the Revolution the Proprietor appointed the grand-

<sup>1</sup> Burt's *Letters*, vol. i. p. 112.

<sup>2</sup> *Old Statistical Account*, Parish of Lochgoilhead, vol. iii. p. 185.

father of James Watt to be his Baron-bailie—a position at that time of great local influence and importance. In like manner, Greenock itself, then a separate but adjoining village, was on the property of Sir John Shaw, whose heirs and representatives are still in possession of the Estate, and whose interests have ever since been identified with the rising fortunes of this great Seaport. The quiet bit of sandy shore which is now covered with its Docks and Quays, was then known as “Sir John Shaw’s little Bay.”<sup>1</sup> The new centres of industry which were then rising in Scotland needed at that time not only the encouragement of such Landowners, but also their influence and protection in their contests with the oppressive monopolies of the older Royal Burghs, such as Dumbarton and Glasgow.

On the other hand, turning from the West to the East of Scotland, it seems to have been a Lord Provost of Edinburgh, who, about 1688, set the first example of the most fundamental of all agricultural improvements, in dividing and enclosing his estate of Prestonfield close to that city.<sup>2</sup> This, however, he did, not in his capacity of Provost dealing with Burghal Property, or “Common Good,” but in his capacity of a Private Owner, in the exercise of those full rights which such Ownership always carried and implied. No doubt those lands, almost touching the old walls of Edinburgh, must have been previously grazed by the cows of some definite or indefinite number of persons, each paying some “grass mail” for the poor support in summer of some still poorer cattle. But common use did not constitute common Property. The ignorant usages of an ignorant time were not stereotyped by being converted into legal rights standing in the way of every kind of progress. And yet, in the

<sup>1</sup> Smiles’s *Lives of Boulton and Watt*, pp. 83-84.

<sup>2</sup> *Old Statistical Account*, Parish of Duddingston, vol. xviii. p. 362. The name of this gentleman seems to have been Sir Magnus Prince.

result, the exercise by the Provost of his rights of private Ownership over these lands, was an immense gain to the citizens of Edinburgh. The meat market and the milk market were at once better supplied. Cows which barely gave two or three pints a day, during a very small portion of the year, were replaced by cows which gave perhaps eight or ten pints a day, and for a much longer period of time. The measure of this public benefit was indicated by the correlative share of it which was secured by the Proprietor. It became gradually known all over Scotland that by virtue of enclosure alone, land near Towns rose in rental by more than a third or  $33\frac{1}{2}$  per cent., which meant that the total produce rose on at least a corresponding scale. Land was never so well and so fruitfully "municipalised" as when it was owned as the private property of an intelligent and enterprising Citizen.

On the other hand, the not less important function discharged by individual Ownership in mitigating the hardness, and modifying the rapidity of changes so great, was not less signally illustrated on another Estate contiguous with that of Prestonfield. This was the Estate of Duddingston—embracing the southern slopes of Arthur's Seat, and the hollow which lies between that hill and the heights crowned by the Castle of Craigmillar. The most tragic scenes in the tragic life of Mary Queen of Scots make all that land classic ground in the history of Scotland. It is almost startling to find that for the long period of sixty-three years after the enclosure of Prestonfield, the lands of Duddingston, so close to the Scottish Capital, continued to be held by a number of poor Tenants, on the Runrig system, with all the pastures common and unenclosed, and with all the arable land miscropped and exhausted under the same barbarous usages which still linger in the remotest and poorest Parishes of the Hebrides.



It was not until 1751 that the Estate was brought under the conditions of agricultural civilisation by the enclosure of the lands, the separation of the farms, the erection of better houses, and the introduction of a better husbandry. All this was done at last under the powers and rights of Ownership by the Abercorn family; and so well and wisely done that the Minister reporting in 1796 could describe the change as not less happy for the Tenants than for the Proprietor and the Country.<sup>1</sup>

We may well wonder, sometimes, at the stupidities of men which so long prevented them from putting the gifts and opportunities of Nature to those methods of use which seem to us now so obvious. But our wonder may well be greater still when we find that new stupidities, in our own day, and after all the enlightenments of experience, are scolding at the knowledge, and at the enterprise, and at the achievements, by which in our fathers' time the older stupidities were replaced. Among these new stupidities there is none so great as the modern revolt against enclosures. These are equally necessary, and equally the symbol of all improvement, whatever be the purpose to which land may be applied after it has been enclosed. It is equally necessary to enclose land whether it be used as Allotments for the poorer classes, or for Farms of all sizes for men having various amounts of capital, or even whether it is to be kept wild and uncultivated, for the purposes of public recreation. It may have been one of the stupidities of former generations not to foresee the importance which would come to be attached to this last purpose from the enormous growth of Cities. But their growth was so gradual, and the want of open spaces was for generations so little felt, that this particular failure in foresight is not really any great matter of surprise. However this may be, the preservation of certain areas of ground for

<sup>1</sup> *Old Statistical Account*, vol. xviii. pp. 362-4.

public Parks near great Towns has now become a most rational and even a most necessary use. It affords, however, no justification for the denunciation of Enclosures which has become loosely popular. This denunciation rests upon nothing but a vague jealousy of all individual appropriation, and against all the improvement which depends upon it. As such it is a sentiment more ignorant and barbarous than any of those that retarded the progress of Agriculture during the stagnant ages. Some of these had, so far as mere sentiment is concerned, a far better justification. The ruinous customs of Runrig, for example, rested originally on a sentiment of justice and of fairness as between the individual shareholders in a Township—a feeling that every one should have his chance and his turn of the best and of the poorer bits of soil. Hence the custom of innumerable sub-divisions, and of the yearly disposal of them by lot. But though the sentiment was good, the ignorance was profound. Men did not then know that the worst land might be made into the best, if it became the interest of any individual to make it so. Nor did they consider that the very best land would become as bad as the very worst by the continued cropping of it by men who had no motive to improve. But none can plead these ignorances now. In our time, therefore, any feeling against Enclosures which are the indispensable foundation of all agricultural improvement, is simply a return to barbarism, far worse than any old failure of our fathers to rise above the knowledge of their times. It is a sentiment in favour of the right of everybody in general to keep the country waste, lest anybody in particular should profit by its reclamation.

In 1756 there was published an elaborate and indeed a sumptuous Work on the Agriculture of England, which in not a few things is even now ahead, if not of the science, yet at least of the

practice of our own day.<sup>1</sup> Nowhere is there to be found a more clear and forcible exposition of the place which Enclosure occupies as the one preliminary condition of every possible improvement, both of the land and of the people who live upon it. The authors declare as the result of their own observation and experience that "Whatever pretences may be made of the oppression of the poor by the enclosing of Lands, this is certain, that they nowhere are so happy as where the land in general is under enclosure, and nowhere so miserable, poor, ragged, and idle, as in those places where most of the land lies in common." Again they say, "Upon the edges of all great commons we see a set of miserable cottagers. Hunger is in their faces, and misery upon their backs: they idle away their time in tending their own and other people's cattle, and breed their children to this poor employment."<sup>2</sup>

Most fortunately for Scotland "Commonties," in the full sense of that word, had almost entirely disappeared before the close of the last century. Moors, and "outfield" pastures used as a common grazing by the joint-tenants of one farm—these, indeed, remained in abundance all over the country. In all the backward parts of it they remain still. But these are not Commons or "Commonties," as they were called in Scotland, in the English sense of the word. "Commonties" were areas of land over which an indefinite number of persons had various and indefinite rights of use, founded only on customs of ancient origin. Farm grazings open to nobody except to the legal Tenants of the farm, and used by them under no other rights than those conveyed to them from the Owner by Lease or otherwise, were indeed, in one sense, "common" grazings. But they were totally different in their nature from Commonties. They could be divided, enclosed, reclaimed, planted, or otherwise

<sup>1</sup> *A Complete Body of Husbandry*, by Thomas Hale and others; a fine folio.

<sup>2</sup> *Ibid.* Book III. chap. ii. pp. 100-101.



dealt with, at the will of the Proprietor whenever an existing Lease expired. And even during an existing Lease they might be similarly dealt with by bargain and agreement between the Owner and the few Tenants who were exclusively concerned. "Commonities," on the other hand, could only be divided and reclaimed by some Judicial process. But the Judicial process provided by the Law of Scotland for dealing with them, was less expensive and troublesome than any which had been provided in England. They never seem to have existed in Scotland to anything like the same extent as in England. The clear and sharp definition of all rights and tenures, which the system of Leases had established with the earliest civilisation of the Kingdom, had tended to keep out confusion. But it is curious and instructive to observe how, in the Border Counties, where centuries of continual war had unsettled everything, and where large areas of land could not be secured for a twelvemonth from devastation, the natural results of promiscuous, hap-hazard, and indefinite usages of Occupation, had precisely the same effects as those so forcibly denounced in England by the universal voice of all impartial observers. In the excellent Report on the County of Dumfries, rendered to the Board of Agriculture in 1794, the strongest language is used in condemnation of the "Commonities" which had existed there, and of the impediments which even the more favourable Law of Scotland had placed in the way of the abolition of them.<sup>1</sup> "Commonage" is declared in that Report by a competent observer "to be so inimical to all improvement of land, and a source of so many moral evils affecting the whole community, that they ought to be abolished everywhere by a general enactment."<sup>2</sup> But this was quite unnecessary, so far as Scotland was concerned. All difficulties and impediments disappeared before the obvious interest of almost all who were locally

<sup>1</sup> *Reports*, vol. ii., Co. Dumfries, p. 55.

<sup>2</sup> *Ibid.* p. 56.

concerned. Commonities soon completely vanished from the map of Scotland ; and nothing remained to be dealt with that even savoured of the same evils, except those ignorant methods of cultivation in Runrig which were pursued by the Tenants of Township Farms.

It is well to remember, however, that, even in this very mitigated form, the principle and the practice of stifling individual interests, and personal aptitudes, in their application to the most important of all industries, was specially dangerous in Scotland because of the great amount of intelligence and of enterprise which were needed to reclaim her rough and encumbered soil. It is impossible to read the account, given in the Report of 1794 on the County of Aberdeen, of the tremendous effect produced by a few "ill years" or bad seasons at the close of the previous century, without seeing that not over the Highlands alone, but over a very large proportion of the whole of Scotland, Famine had been always standing at the door. Very widely indeed that gaunt Figure not only stood at the door, but entered within the House. It was said of the "ill years" referred to, that, in addition to all those who were only kept from starvation by collections at the churches, there were more than 200,000 people who were wandering mendicants begging from door to door.<sup>1</sup> This represents a terrible percentage of the then population of Scotland. The County of Aberdeen was depopulated. The land was waste ; and not until after the new burst of Industry had begun, and an appeal was made to individual skill, enterprise, and capital, in the holding of undivided farms, was the country redeemed from its desolation.

Neither was it enough that the Tenants should all be men with single holdings, and freed from the common interest of ignorant partners in the perpetuation of senseless usages. This was not

<sup>1</sup> *Northern Rural Life*, p. 46.

enough, unless the new Tenants were fitted to take advantage of their new position, by having themselves risen above the old level. Accordingly, nothing is more striking in the accounts we have of the condition of the country before the Union, than the testimony they bear to the failure which followed the letting of land to men who had neither knowledge nor capital. Many Proprietors after the Famine had no opportunity of exercising any effective power of selection, because there was no competition. They were glad to let their land to any applicants who could take it, even in the smallest portions, and with the poorest qualifications. They were tempted to break down their farms into minute holdings at from £2 to £5 Rent. The Occupants made a little money by knitting stockings. They could eat potatoes. But they were ignorant of agriculture. The result was that, in 1794, wherever these small holdings prevailed, the condition of the Occupiers was described as having become gradually reduced to "the degraded state they held at present."<sup>1</sup> Next followed the great scarcity of 1740, and again the repetition of famine in 1782, which affected with special severity the County of Aberdeen.<sup>2</sup> But by this time the new knowledge had begun, and the general rise of Industry had been well established. As usual under such conditions, both Migration and Emigration followed, and a race of new Tenants, with the requisite skill and capital,—selected by the Owners—holding undivided Farms,—and encouraged by adequate Covenants, joined the broad and rapid stream of national advance.

<sup>1</sup> *Reports*, vol. i., Aberdeenshire, p. 51.

<sup>2</sup> *Ibid.* pp. 57-8.



## CHAPTER IX.

### THE FRUITS OF MIND.

It was not in Agriculture alone that the great principle of giving free scope to individual Mind, and to individual Capital, which is its fruit, became the prime agent in the advancing prosperity of Scotland. It was equally conspicuous and equally powerful in the opening of her Trade and Commerce. In a former chapter<sup>1</sup> I have referred to the engrossing Monopolies which had been given by early Charters to the old Royal Burghs of the country. Those who have been accustomed to think of Fiscal Protection as specially associated with the interest of Landowners, have little idea how universally this system originated with the only popular Bodies which existed in the Military Ages, or of the extravagant lengths to which commercial exclusiveness was carried on their behalf. For centuries, and by repeated Statutes, the whole Trade and Commerce of Scotland were placed in the hands of a few Communities of ancient date, to the absolute exclusion not only of the whole agricultural classes, but to the exclusion also of all other Towns and Villages which had arisen from time to time in situations favourable for some particular kind of industry. The "liberties" granted to the old Communities were Monopolies in the only correct sense of that word—the sense, namely, in which it means the absolute prohibition of all selling and buying by all persons who do not belong to the privileged

<sup>1</sup> Chapter ii. pp. 67, 68.

Community, so that even their own money and their own goods are made useless for purposes of exchange except through the narrow circle of the Monopolists.<sup>1</sup> Not a single quarter of corn,—not a single beast of any kind,—not a single cask of wine,—not a single fleece of wool, nor hide of cattle, could be lawfully imported, or even bought and sold, except through the hands of the privileged Freemen of the Royal Burghs. Within the Burghs themselves the Magistrates assumed and exercised the right of regulating and fixing the prices of all kinds of goods, and especially of bread and provisions generally. This was done in the assumed interest of the Community.

Nothing is more remarkable in the History of Scotland than the manner in which this wide, deeply rooted, and oppressive system was gradually invaded and destroyed by the natural action of individual interests, without any previous change of abstract opinion against the general policy on which the system had been ignorantly founded. So late as the reign of Charles I. in 1633, a fresh Act was passed renewing, reviving, and enforcing the older Statutes, and whatever had become more or less obsolete in these Communal Monopolies over the whole Trade and Commerce of the Nation.<sup>2</sup> This was too much. There was an immediate and strong reaction from the growing energies of individual enterprise and industry. The first great breach which was effected in the system, came through the undermining action of the new Towns and Villages which had no old Charters, and were not included within the charmed circle of the Royal Burghs. The inhabitants of these places could not practically be prevented from buying and selling such articles as they were able to make, or—if they were near the sea—to import.

<sup>1</sup> It is a vulgar error to apply this word to the possession of articles which are limited in quantity. If all who have such articles are free to sell them, and all are equally free to buy them, then the possession is not a monopoly.

<sup>2</sup> *Act. Parl. Scot.*, vol. v. p. 48 (1633), c. 24.

Then came the supporting action of the Landowners on whose Estates these new Towns were rising. They had risen and were growing under the powers and rights of Leasing, of Feuing, and of Heritable Jurisdiction, which these Landowners held by Charters erecting their Estates into Baronies of Regality, or into simple Baronies with powers only a little less extensive. Hence these new Towns and Communities were called Burghs of Barony and of Regality. For several centuries there had been more or less of a perpetual struggle on the part of the Royal Burghs to enforce their monopoly, and to crush the newer Towns as nests of Smugglers. On the other hand the great Landowners who held Baronies and Regalities, were naturally interested in the prosperity of the new Towns which were rising under them, and thus became insensibly, but very practically, interested in the extension of individual liberty, and consequently in the freedom of Trade. Accordingly when legal questions arose, and the Royal Burghs prosecuted other Towns for violation of their monopolies, the Landowners sometimes appeared in support of the defence.

The Act of 1633 was too violent to be borne. At last, in 1671, a case arose which brought matters to a head. Falkirk was a Burgh of Regality built on the Estate of the Earl of Callendar. But it was within the area of Monopoly claimed by the Royal Burgh of Stirling. It was prosecuted for allowing its inhabitants, who were "unfreemen," to engage in trade. The case attracted great attention. The Barons of Regality took up arms in a body in favour of a wider liberty. The Duke of Lauderdale himself, who was interested in the rising Town of Musselburgh, was induced to come to Edinburgh to watch the case as it was argued before the Court of Session. It soon appeared that the questions raised touched the whole policy of the Kingdom, and could only be settled by the Legislature itself. A suggestion



to this effect by Sir George Mackenzie was taken up by the Lords of Parliament, whose duty it was to prepare Bills; and the result was the Act of 1672,<sup>1</sup> which effected a temporary compromise between the interests of individual freedom and the old Monopolies in the hands of a few popular Bodies. Parliament declared that the Act of 1633 had extended those monopolies to a degree "highly prejudicial to the common interest and good of the Kingdom." Nevertheless, the monopoly of the Royal Burghs was for the future kept up as regarded both the export and import of many articles of foreign produce, except in so far as private persons of all ranks might import them for their own domestic use alone. On the other hand, the export and sale of all agricultural produce and all native commodities was made free to all the subjects of the Realm. The new Towns, the Burghs of Regality and of Barony, were made free to trade in all manufactures of their own, to export all home produce, and to import many articles required for "tillage or building;" whilst the retail trade of Markets was made absolutely free.

This was a tremendous breach in the exclusive privileges of the old Burghal Communities, and it was the opening of a very wide door for the free action of all individual interests. Accordingly, against the ever widening consequences of this Act the Royal Burghs, which alone were represented in Parliament, carried on an unceasing struggle and protest, loudly calling for its repeal. They did succeed in getting some new Acts passed after the Revolution, fencing and guarding, by new provisions and penalties, the exclusive rights which still remained to them as regards the imports of foreign produce; and at a later date their interest in Parliament, backed by the influence of traditional feelings and opinions which were not yet theoretically abandoned, were sufficiently strong to secure

<sup>1</sup> *Act. Parl. Scot.*, vol. viii. p. 63 (1672), c. 5.

a Clause in the Treaty of Union with England, providing for the security and continuance of their privileges as they then stood. But too much freedom had now been granted to keep out the continued and unceasing pressure of individual Mind. The Courts of Law in all doubtful cases ruled in favour of freedom in the true sense of that word, the sense, namely, of individual liberty. The natural right of every man to exercise his own faculties in the free disposal of his own means and property, became too wide an instinct to be compatible with even a faint survival of the Communist Monopolies. Yet it may well be regarded with surprise, that, so far as the Statute-Book was concerned, they survived down to our own day. It was not until 1846 that an Act was passed formally abolishing them, and this was passed as the result of an inquiry by Royal Commission, which reported that practically they were already dead.

Every step in the long process of self-education through which the Nation passed in this question of Trade Monopolies, is full of historical and of political interest. There are two documents which throw especial light upon that process, which are separate from each other in date by no more than 35 years. The first belongs to the time of the Commonwealth—the second belongs to the time of William III. The Protector, as is well known, contemplated and for a time effected, a complete Union between England and Scotland, both being under one Government, and represented in one United Parliament. It is to the credit of the Royal Burghs of Scotland that a majority of them seem to have voted for Cromwell's policy, which included as one of its main advantages, complete freedom of commercial intercourse between all citizens of the Commonwealth. Struck by the poverty of Scotland and the heavy deficit on its revenue below the cost of its administration, he sent down an

experienced Commissioner<sup>1</sup> to inquire into the subject, and especially into the condition of the Royal Burghs. His Report, rendered in 1656, gives an authentic and a very striking account of the almost abject poverty of the country, and of the miserable narrowness of its Commerce. He saw at once that much of this scantiness of Trade was directly connected with the backwardness of Agriculture, and the consequent want of any products to exchange. This condition of Agriculture again he ascribed to the ignorance, poverty, and slothfulness of the people. With a curious insight and perspicacity, he pitched on the most striking symbol of all the waste he saw, and pointed to a "lazy vagrancy of attending and following their herds up and down in their pasturage."<sup>2</sup> There was consequently no trade from the inland parts. There never had been much; but what remained was limited to the seaside, and was confined to a few Ports on the East coast, and in or near the Estuary of the Clyde. Glasgow had then only twelve vessels, the biggest of which was 150 tons burden, and most of which were mere boats. They traded to Ireland with small coals in open boats of from four to twenty tons, taking back meal, oats, butter, with barrel staves and hoops. There was a limited trade with France and Norway—coals, plaiding, salt herring, and salmon being the chief articles, for which they got some condiments and prunes. Dundee had suffered severely from the Wars. Her trade had declined, but "though not glorious, yet was not contemptible." She had ten vessels in all, the biggest 120 tons. Ayr was in a sad condition, from the silting up of her river and harbour. "The place was growing every day worse and worse."<sup>3</sup> Newark (now Port-Glasgow) had "some four or

<sup>1</sup> A Mr. Tucker from the Office of Excise in London.

<sup>2</sup> *Miscellany of Scottish Burgh Records Society*, 1881: Tucker's Report, p. 16.

<sup>3</sup> *Ibid.* p. 28.



five houses besides the Laird's house of the place." Greenock was just such another, only a little larger—the people all fishermen and sailors trading to Ireland and the Isles in open boats; yet in spite of all this leanness in the land, Cromwell's agent had the perception to see, and did not omit to mention the "Mercantile genius" of the people.

Such was the description of a stranger, coming from a wealthier country in 1656. But thirty-five years later we have the description of the Royal Burghs of Scotland given by themselves. They had spent many of the intervening years in vain endeavours to enforce their monopoly against all their countrymen, and in alternate contests and negotiations with the Landowners who were encouraging the new, unprivileged, individual Traders who were rising everywhere. The Restoration of the Monarchy had brought with it the immediate abandonment and revocation of all Cromwell's policy, including Free Trade with England. This great outlet was lost to Scotland—to all her Towns whether "free" or "unfree." All the more was personal energy and character required for success in the narrowed and restricted paths of industry. The old Royal Burghs did not advance. At last, in 1691, they appointed a Committee to inquire and report on the condition, revenues, resources, and difficulties of every one. A tabulated series of questions was addressed to each. The result was a series of Reports of the highest interest in History and in Politics. One broad result stares us in the face—that almost everywhere the privileged and monopolist Burghs were stagnant or declining, whilst the new Towns which had no privileges, and were even heavily handicapped in the race by having to fight against Communal Monopolies, were as universally prosperous, and were rising every year in wealth and in importance. Mind, set upon its mettle, was everywhere triumphing over routine and usage:—Mind, in the selection of new

sites—Mind, in the advantage taken of special opportunities—Mind, in seeing new openings—and everywhere, Mind freed from the stupid levelling of arbitrary Guilds.

Nothing can be more striking than the evidence to this effect. One of the questions asked of all the old Royal Burghs concerned the number and condition of the New Towns of Barony and Regality which existed within the area of their Monopoly. The list given is a list of many of the most important Towns now existing in Scotland. The Royal Burgh of Renfrew enumerates no less than nine new Burghs of Barony and Regality within “their precincts,” even the smallest of which had “a much more considerable trade” than themselves. Among these nine we find Paisley, Port-Glasgow, Greenock, and Gourock. The rising trade of all these places was, if possible, to be suppressed, and the Royal Burghs universally refer to it as “highly prejudicial” to their own interests and industry. Even Glasgow was at that time declining—with nearly five hundred houses “waste,” whilst those still inhabited had fallen nearly one-third in the rents they fetched. The best houses in Glasgow were at that time worth no more than £8, 6s. a year in Sterling money. Glasgow bitterly complained of the same neighbouring Towns, and of some others, which so vexed the soul of Renfrew. In particular, the little village which was growing up on the shores of “Sir John Shaw’s little Bay,” Greenock, was described as having “a very great trade both foreign and inland, particularly prejudicial to the trade of Glasgow.”<sup>1</sup>

And yet in the midst of these stupidities we have a few evidences that even the Communal Mind was opening to the lessons of experience. In a few cases men began to see that the action of the human Will is subject to cer-

<sup>1</sup> *Miscellany of Scottish Burgh Records : State of Burghs, etc., p. 72.*

tain natural laws, and that when enactments run counter to these, or do not take due note of them, such enactments, however virtuous in motive, are purely mischievous. Thus in 1688, the Convention of Royal Burghs had awakened to the fact that the Sumptuary Laws had been "very prejudicial" to them.<sup>1</sup> It was turning out that what were called the luxuries of the rich were inseparable from the comforts and necessities of the poor. Costly things were only costly because they were much desired, and because much was consequently given to those who could find, produce, or make them. And a great part of this cost went of necessity to the Muscular Labour, which was the contribution of the poor. Again, the Royal Burghs were beginning to find out that even within their own "precincts," individual enterprise was breaking through the incubus of their communal restrictions. Individual citizens and Burgesses, seeing the success of their neighbours in the "unfree" Towns, were entering into partnership with them in various enterprises and speculations. It is worth while to listen for a moment to the words in which this conduct of men in the free disposal of their own faculties, and of their own property, was denounced by that spirit of tyranny which is never more oppressive than when it is wielded in the supposed interest of a local popular majority. "The Convention being resolved no longer to suffer the privileges of Royal Burghs to be abused and encroached upon by their own Burgesses, who, by joining stocks with unfreemen, inhabitants in the Burghs of Regality and Barony, and other unfree places, both in point of trade and shipping, whereby those unfreemen receive all imaginable encouragement from freemen in Royal Burghs to trade, and that the said freemen do voluntarily and with their own hands destroy the privileges of the Royal Burghs —therefore"<sup>2</sup> the Convention denounced new pains and penalties against all such

<sup>1</sup> *Miscellany of Scottish Burgh Records* : Preface, p. 32.

<sup>2</sup> *Ibid.* p. 40.



persons—as disloyal to the Community to which they belonged.

Here was an aperture in the armour of Burghal monopolies which the irrepressible energies of individual interests were quite sure to widen. Partnerships could be easily concealed, and the only result of enforcing inquisition into the use to which men might put their own money, would have been, and doubtless was, that the most enterprising Minds would seek refuge in the new Towns. With them, therefore, the contest was hopeless, and it soon ceased altogether. But for many years after this date, and even after the Union, the exclusiveness of the Guilds in the supposed interest of the Skilled Labour, and of the Retail Trade of the old Burghs, continued unabated. It was reserved for this system as it prevailed in Glasgow, to afford the most signal illustration of its antagonism to the laws of Nature. The site of Glasgow had been chosen without any view to industry even of the earliest and rudest kind. It had not clustered under a Rock Fortress, like Stirling or Dumbarton. It had not arisen beside a natural harbour, like Dundee or Aberdeen. It had not grown up out of a fishing-village, like Greenock or Rothesay. Its nucleus was not even a feudal Castle. Its position had been determined by the Cathedral of St. Mungo, and was originally a mere hamlet of “the Bishop’s men” living under the protection of a great Archiepiscopal See. It was not among the number of the most Ancient Royal Burghs of the Kingdom. In the Fifteenth Century its importance was increased by being made the seat of a new University. But this was done through the same influence and agency of the Church to which the Town owed its own foundation. Glasgow was itself, therefore, nothing more than one of the Burghs of Barony on a Church Estate. Two of the Old Royal Burghs, Rutherglen and Dumbarton, long domineered over it, as now Glasgow

tried to domineer over Greenock and Paisley. It is true that it stood near the river Clyde, towards which its houses gradually straggled. But the Clyde at that point was distant from the sea, its course was very shallow, and it was being perpetually silted up with shifting sandbanks. This was one of the causes of its decay in Cromwell's time. Only through the new openings which came with the Union did it begin to revive again. But, as a Seaport, it never could have reached its present position without the operation of the Steam Dredge, through which ships of the heaviest burden have long been able to ascend the river, and to lie beside its quays. During the last forty-six years very nearly forty millions of tons of material have been removed from the bed of the Clyde by the Steam Dredge—a mass which would form a conical mountain 513 feet high, with a circumference at the base of one mile and a half.<sup>1</sup> Yet it is a memorable fact that when the future Inventor of the new Steam Engine, without which dredging on this gigantic scale would have been impossible, came to reside and to open a shop in Glasgow, he was persecuted as an interloper and a poacher on the domain of the Guild of Hammermen. James Watt was then probably known there as an ingenious Mechanic, but he must have also been known as the grandson of one of the earliest Bailies of the “unfree” Town of Greenock, that most presumptuous union of the villages of the Crawfords and the Shaws. The Hammermen declared that from the competition of such an “unfreeman,” the whole Community would “suffer skaith.” A man on whom Nature had bestowed, in richer measure than it had ever been bestowed before, the very individual and the very special gift of mechanical genius, and whose discoveries were destined to raise Glasgow to be one of the greatest

<sup>1</sup> I give these astonishing facts on the authority of Mr. James Deas, C.E., kindly communicated to me through Dr. Marwick, Town-Clerk of Glasgow.

Cities of the world, was actually driven from her Burghal "precincts." Fortunately the University had precincts of its own which were outside the "liberties" of the Guilds. Within that sanctum this patient and laborious Mind wrought out the great problem on which its heart, as well as its intellect, was set. It thought and pondered, and weighed and measured, and tried and tried again, until at last the moment of Inspiration came, and one of the most tremendous agencies in the material world became tractable as a little child. It was tamed, yoked, and bound to every variety of human service—an immense contribution indeed, not only to the Common Good of Glasgow, but to the Common Good of all Mankind.

The same natural play of instinct and of motive which had led the Landowners with such immense success to foster individual liberty and enterprise, in the hands of their own Villagers and Feuars, now led them also to rely more and more on the same great principle as equally applicable to their agricultural Tenants. For this purpose the first step to be taken was that, wherever possible, on the expiry of old Leases, their farms should be re-let to individual Tenants. Such Tenants became at once freed from the trammels of Communal Usage, and could move out of the ruts in which the wheels of progress were jammed up to the very axletrees. They could—but were they sure to do so? Here again there was an education of experience—analogous to that which only very slowly and very gradually educated the Towns in the lessons of the new Industrial Age. It soon turned out that neither the mere circumstance of undivided holdings, nor the additional circumstance of very long Leases, were enough of themselves to secure an improving Agriculture. The reason is obvious. If the sources of all Wealth are Mind, Materials, and Opportunity, it is clearly not enough to have only one, or only two of these sources opened. Materials are useless, and so is



Opportunity, and so are both together, if the appropriate qualities of Mind to make use of them are wanting. Significant indications are given in the Reports so often referred to, of the steps of experience through which the Owners of land were taught how best to secure the improvement of the soil. Thus in the Lennox, the perpetual tenure of Feu for a fixed annual payment, had been given over various areas of agricultural land to men who thereby became small Owners, and had all the inducements to improvement which Ownership is reputed to give. But neither the accumulations due to Mind in the past, nor those aspirations of Mind which regard the future, were present to take due advantage of the Material and of the Opportunity. These Feuars belonged originally to the old unimproving class. They had no conception of educating their children for any other employment than that on which they and their fathers had maintained existence. Consequently they went on sub-dividing their lands among a progeny as ignorant and unimproving as themselves. "They thought it a disgrace that their children should be anything but Lairds."<sup>1</sup> This sub-division went on increasing until the little possessions had become so small, in 1794, that some of the Owners could not afford to keep a horse. Then we have the usual sickening detail of constant over-cropping, of "nothing being laid out on improvements, and of the land being scourged to the last extremity." The whole produce could hardly support the families that depended upon it, even with the addition of what was procured by the unremitting labour of the wife and children in spinning and a little weaving.<sup>2</sup> This is an exact description of the results of a similar condition of things now common among the Peasant Proprietors of parts of France, as described by such eye-witnesses as Mr. Hamerton, Lady Verney, and many others.

The lesson against feuing agricultural land was

<sup>1</sup> *Agriculture of Dumbartonshire*: Reports, vol. ii. p. 14.

<sup>2</sup> *Ibid.*

hardly needed. Land feued is land sold. Feuing is merely one form of total alienation. A "Superior" parts with all the powers and rights of Ownership, except that of receiving a Rent charge. The Feuar becomes the Proprietor. On the other hand, the evidence furnished by the Report of 1794 on Dumbartonshire, is in favour of what are now called Allotments—that is to say, small areas of land let to Labourers and Tradesmen who were intelligent. These were reported to be by no means ill cultivated or unimproved.<sup>1</sup> On the contrary, they were reported to be as far advanced as any part of the County—at a time too, when the Common Good of the Burgh was lying comparatively waste. On such Allotments the full benefit of individual interest was at work, coupled often with knowledge above the average of that possessed by the old class of Tenants. Feus are an excellent tenure for purposes of Building, and Scotchmen generally will not build on any tenure less secure and permanent. But there is no reason which should induce a Proprietor to give off agricultural land on this tenure. If he wishes to sell, it is best to sell out and out. But the example of those old feus to small Owners in Dumbartonshire is an excellent illustration of the general principle on which all improvements depend.

There was, however, another case in which the teachings of experience were more practically important. Leases of great length are another panacea amongst those who have had no experience, which is often recommended with much confidence. But this also was tried, and with the same result, depending exactly on the same principles. It appears from Professor Walker's Work, published in 1808,<sup>2</sup> that Archibald, third Duke of Argyll, the friend of Culloden, had been induced to give some very long Leases of large farms in Mull—Leases for

<sup>1</sup> *Agriculture of Dumbartonshire: Reports*, vol. ii. p. 15.

<sup>2</sup> *Economic History of the Hebrides*, vol. i. p. 68.

“three nineteens,” or a period of fifty-seven years. He expected the Tenants “to set a pattern of industry and improvement” on such length and security of tenure. But the expectation was not fulfilled. When the Leases were half expired the farms were found to be as little improved as any on the Island. The same experiment had been tried in the Island of Islay by Mr. Campbell of Shawfield, who, in 1720, let all his Estate on Leases of the same long duration, with the result that in 1764 that Island had undergone no improvement—with one solitary exception. Flax had been introduced, and became a source of industry and advantage to the Island. But this one exception was the result, not of the long Leases, but of the only compulsory clause which had been inserted in them by the Proprietor, which was a clause binding the Tenants to cultivate flax.<sup>1</sup> It thus appeared that the only one item of improvement which had been effected during more than half a century was due, not to the Mind of the Tenant, but to the Mind of the Proprietor—to his forethought, and to his knowledge—in binding men who were comparatively ignorant, to begin a new industry, which of themselves they never would have thought of.

In this one exception to the general result we see the whole secret and the whole philosophy of the only method by which it was then possible to improve the agriculture of Scotland—to arrest the increasing impoverishment of her soil, and to lift her rural population out of the poverty and sloth in which they lived. It was the exercise, in a new direction, of the same Power to which the Parliament of Scotland had often appealed before, not only to secure a Tenantry loyal to the Government, but also to secure such rural improvements as were then known. Educated men were to direct the energies of men less instructed. Mind was to keep its power over Muscle. Very long terms of Lease, during

<sup>1</sup> *Economic History of the Hebrides*, vol. i. p. 68.



which this power was to be suspended, could not but be mischievous. Most fortunately for the country, few Proprietors had been induced to try an experiment which could not be stopped during the long period of nearly sixty years—although it might be quite evident before one-half that time had expired, that it must end in total failure. In the great majority of cases they had granted no other Leases than those of the ordinary duration of “one nineteen,” and at the end of every Lease they inserted stipulations in the new Tacks binding the Tenants to execute certain specified improvements. These, of course, expanded with the expanding knowledge of the day. Proprietors were themselves only in course of being educated; and some were before others in appreciating and accepting the advancing knowledge of a new science. In some points they were almost as slow to break with ancient Usages, and to perceive the mischief of them, as the most ignorant of their Tenants. The heavy dues exacted for “Thirlage,” or the maintenance of Mills, were a great evil, and they were not wholly abolished till recent years. But the stipulations in Leases became more and more enlightened and important in their effects. They began generally with stipulations for the making of enclosures, and for the building of better Houses than the old hovels, which were as universal in the Lowlands as in the Highlands. But this rudimentary step of providing for enclosures speedily involved corresponding stipulations for the uses to which enclosed land was to be applied. There were clauses to forbid old habits which were ruinous. There were clauses prescribing new methods which were fruitful—clauses forbidding continuous cropping with Cereals—clauses enjoining an alternation with the new Green Crops—clauses insisting on the use of Sown Grasses—and on the application of due quantities of manure. With the growing knowledge of the cultivating class, and the yearly proofs experienced of increasing produce and of rising values,

the necessity for such detailed stipulations gradually abated. The "rules of good husbandry" became a legal phrase, having a definite meaning, and susceptible of judicial interpretation. A class of Tenant farmers arose having themselves ample knowledge, sufficient capital, and technical skill. In proportion as the permanent accommodation and apparatus required for scientific agriculture became more costly, it became more and more the universal habit in Scotland that the Owner should supply that accommodation and apparatus along with the land itself. In some cases part of this work was done by the Tenant on stipulated conditions—he making his own calculations for repayment, either by comparative lowness of rent, or by comparative length of Lease—or by both combined.

It is not often that we can enjoy in human affairs the sharp and clear processes of demonstration which are the glorious reward of Physical Research. Yet such—and not less certain—are the proofs now afforded by the history of Scotland in favour of the Powers and Agencies through which her Agriculture was reformed during the latter half of the Eighteenth Century. By all that had happened before the change—by all that ceased to happen wherever it was effected—by all that continued to happen wherever it was hampered or delayed,—it is proved to demonstration that terrible evils and dangers were inseparably bound up with the older system, and with the ignorant habits in which the whole of it consisted. This is one kind of proof. But there is another kind. By all the benefits which the change immediately conferred—by all the increase in these benefits which arose in proportion as it became developed—by all the sacrifice of them wherever it was still delayed,—we can see without the shadow of a doubt, that the new system was founded on Natural Laws, on the recognition which they demand, and on the obedience which they reward. Nature takes no cognisance of stupidity in the

sense of allowance or of remission. She does take cognisance of it in the way of punishment. Chronic poverty and frequent famines had been, as we have seen, the punishment in Scotland of the ignorant wastefulness of its traditionary agricultural customs. So now when Mind had been awakened, and when its energies, wielded by individual men, had been turned with better knowledge to the improvement of the soil, Nature took notice of it by a lavish increase of her fruits. It is a striking fact that the "ill years"—the bad seasons—of 1781-2 were the last which afflicted any large part of Scotland with severe distress and the danger of famine. In those years the new knowledge, and the new class of Tenants who were able to make any use of it, were as yet established only in some parts of the country. Everywhere else the old usages were still supreme—the Runrig cultivation—the promiscuous grazing—the wretched Cattle—the not less wretched Oats and Bear. The consequence was that over no less than fifteen of the Counties of Scotland, a population of not less than 111,521 souls were only rescued from starvation by charitable collections.<sup>1</sup> After this date down to our own times there have been bad seasons again and again recurring at about the usual intervals—but never have they had the same effect—except in the few remaining fastnesses of the ancient ignorance. These fastnesses have chiefly been in the Hebrides, and in a few Districts of the Northern Highlands—always where, only where, and in proportion as, the old stupidities have resisted and survived.

But the story of this resistance is so curious and so instructive that it must be shortly told.

We have seen how in 1739, under the advice of Culloden, the first great step had been taken on the Hebridean Estates of the Argyll family—that of redeeming the class of Sub-Tenants from their servitudes to the Tacksmen under whom they

<sup>1</sup> *Memoirs of Sir John Sinclair, Bart.*, vol. i. p. 90.



universally held at Will. In some cases they were themselves raised to the position of Tacksmen—in all cases they were freed from indefinite exactions. We have seen, too, how shocked Culloden had been by the wasteful and barbarous husbandry he witnessed in Tyree. But on the other hand he did not see his way to any immediate or compulsory change in these methods of cultivation. He probably thought that self-interest, now called into play under new conditions of security, would be enough to bring about reform. Wielding the powers of Ownership, he had abolished one deeply-rooted and most ancient custom—the custom of indefinite Servitudes. He did not know, or perfectly understand, that nothing but the same powers, wielded with like determination and like intelligence, could uproot those other Servitudes—as old and as destructive—under which the people were chained and bound amongst each other in a perfect tangle of obstructive usages.

Culloden and all that generation passed away, with his two friends, Duke John and Duke Archibald (Lord Islay). The struggle was unceasing to get the people to amend their culture. Then came the Potato—then the Kelp. Subsistence became comparatively easy, and was sometimes abundant. But all this came to a people unprepared by previous habits, or by any new aspirations, to profit by it. Nothing was saved or stored. They lived, and ate, and multiplied. From the date of my Grandfather's succession in 1770, he issued ceaseless instructions for the improvement of the people. He insisted in his Leases on enclosures, to save the arable lands from constant invasion by whole herds of useless horses and lean cattle. He insisted on better Houses. He tried his best to prevent the systematic waste of Barley by illicit distillation. He tried to establish Fisheries. He tried to stop the destructive habit of breaking up pasture on Sands which were liable to be blown. When

Kelp became an important resource he left so large a part of it to the workers that they held their land practically for nothing, because the whole rent, and often much more, came out of Kelp. His rent from 13,000 acres of land did not amount to more than the saleable value of the Barley crop alone. All other produce,—potatoes, lint, sheep, milk, butter and cheese, poultry, eggs, etc., were not counted at all as contributing to rent, because the Proprietor said “he wished the Tenants to live plentifully and happily.” It was all in vain—as regards any permanent improvement. Plenty is a relative term. Produce which was plenteous for a population of 1676 persons in 1769, would not be plenteous to a population which had risen to 2776 in 1802. In that year the condition of the Island alarmed his agent, Mr. Maxwell of Aros, an excellent and able man who was maternal grandfather of the late Dr. Norman Macleod. His Report is a repetition of the worst accounts to the Board of Agriculture in 1794. Subdivision had reduced the holdings to starvation point. The Cows did not produce calves above once in two or three years. Troops of Horses, used only for dragging seaweed at one time of the year, preyed all the rest of the year on the exhausted pastures. Hosts of Cottars living only on the wages of Kelp-burning oppressed the unfortunate Tenants. The quality of the Barley was deteriorating rapidly. Ignorance of all husbandry, and stubborn attachment to the old customs, offered “arduous obstacles to the improvement of the Island.” The additional One Thousand people who had grown up in recent years could not be supported. My Grandfather had begun to entertain the proposal to help them to the Colonies. But in 1803 there arose, as we have seen, that panic against Emigration described before. The old Duke seems to have deeply shared in it. His soldierly spirit was stirred, too, in favour of the men who had enlisted in the Fencible Regiments which were about to be disbanded at the Peace.

He determined to try a new plan. He resolved to break down and cut up several of the larger Farms falling out of Lease, and to settle as many of the people as he could on smaller but separate Holdings of a size calculated to support a Family with ease. But one essential part of this scheme was enclosure—individual possession—the abolition of promiscuous waste in the form of Runrig. He employed a professional Surveyor to lay out the new “Crofts,” which were to be capable of supporting not less than 16 Cows.

This most benevolent scheme was met by the most obstinate resistance on the part of the people. Rather than give up the wasteful habits of Runrig, they declared they would rather go to join the emigration which Lord Selkirk was then leading to North America. The Duke’s agent at the time was a Highlander himself, intimate with the condition and habits of the people. Yet he writes almost in despair with their infatuated blindness to their own obvious interests, and to the value of the reforms which had by that time become accepted by every educated man. He suggested to the Duke a postponement of the plan. Yet time was needed to make even a beginning, and the powers of Ownership were once more asserted to insist on the abolition of a system so destructive and so dangerous. By firmness, and by assistance given in fencing, the division and individuality of the arable lands was at last effected. The grazings only continued to be used in common, but even on these the amount of stock was carefully fixed and apportioned to each man.

Now followed a most remarkable series of facts. The old Field-Marshal died in 1806. In one respect his policy was entirely successful. The separation of holdings—the individualisation of the arable areas—resulted, almost automatically, in a great increase of produce. But it had another result which was not foreseen. It facilitated and



gave a new impulse to further subdivision. Under the Runrig system the introduction of an additional shareholder required assent. In settling this there were at least some difficulties to be overcome in the way of subdivision. Under separate holdings of the arable area these difficulties were much diminished. Increasing produce and a greater freedom in subdividing, were at once taken advantage of by a people whose intelligence was not developed in proportion to its opportunities. Nothing but the continued exercise of the powers of Ownership in fighting a watchful and uphill battle against inveterate habits, could have been successful. Instead of this there was an almost complete abandonment of all control. There came a Reign—not of Law, or of Mind—but of what in medical language is called “Amentia.” My Grandfather’s Successor<sup>1</sup> lived for thirty-three years—during the whole of which time the powers of Ownership may be said to have been suspended. He was a perfect type of the kind of Landowner who was adored in Ireland—one who never meddled or interfered with the stupidities of Custom. Celtic usages were allowed their course. Subdivision went on at a redoubled rate, and population kept up even more than pace. In 1822 the Farms which had been held by small Tenants ever since Culloden’s time were crowded with a population of 2869 souls; whilst the newly divided farms, five in number, held no less than 1080 more. There had been a bad season in 1821. The Cattle were almost starved, and there were many cases of great misery among the people. Once more, Kelp came to the rescue. There was an extraordinary supply of it, and this, with wholesale insolvency admitted and allowed, tided over the crisis for a time. Next came another tremendous blow. The whole Kelp Trade rested on Fiscal Protection, and on two special taxes alone. One was upon Spanish Barilla—a Plant growing not

<sup>1</sup> George, Sixth Duke of Argyll, succeeded 1806, died 1839.

in the sea, but on the land, and rich in the Alkalis which seaweed afforded. The other impost was the tax on Salt—a tax most oppressive to numberless industries, and specially injurious to the Highlands, through the impediments thrown in the way of the trade in fish. From common salt, which is a salt of Soda, the same important Alkali could be made into other combinations. Both these taxes were repealed—one in 1823, the other in 1826. The trade of the Kingdom as a whole was immensely benefited. But the special, and the only manufacture of the Hebrides, and of the adjacent coasts, was destroyed.

In all other countries when Mines are exhausted, or when Mills are closed, or when any other local industry is extinguished, the people who had been so employed invariably move off to other fields where their labour can be made remunerative to themselves, and useful to the world. But the Hebrideans never thought of this. There is, nevertheless, no suspension of the laws of Nature for the special and exclusive protection of any particular set of men, merely because they belong to a particular race, or because they live in an Island, or because they speak a particular language. Failing the Kelp trade, they still held on by the Potato. The consequence was that the “ill years,” which must every now and then recur, always smote them with the misery and famine which had in former generations smitten the rest of Scotland. In 1836-7 there was terrible misery all over the Highlands wherever the old system still survived, and especially in Skye. We have an account of it, and of the causes which produced it, from an educated Highlander,<sup>1</sup> who writes with that high intelligence of his race which never fails to be conspicuous wherever Highlanders are lifted above the level of the old Paternal Customs. I need not repeat his story.

<sup>1</sup> Mr. Alexander Macgregor, Licentiate of the Church of Scotland *Quarterly Journal of Agriculture*, No. XLII., vol. ix.

It is a mere duplicate of the course of events which we have followed in Tyree. Everything that had been done in the panic of 1803 against emigration, had simply ended in aggravating the evil. Even the making of the Caledonian Canal, begun in the same year, from which much was hoped, had done no permanent good. The Skye men had indeed worked at it. Whilst the construction of it had lasted, between 300 and 400 of them had earned from £3500 to £4000 in the half-year. But there was no change of habits—no elevation in the standard of living. On the contrary, it was becoming lower and lower from the wretched husbandry, and from the stimulated growth of population. The one Parish of Kilmuir had in 1736 only 1230 souls. Even this was far above the population it had supported in the Epoch of the Clans. This is repeatedly and emphatically stated by Mr. Macgregor, and it reminds us that even then the population of the old Military Ages had been far exceeded. Yet nineteen years later, the population had risen to 1572. In 1791 it was 2060. In 1831 it was 3415, and in this year of renewed famine 1836-7, it amounted to about 4000.

It will be observed that this exorbitant increase went on after the Kelp trade had been destroyed. There was nothing whatever to justify, or account for such increase except an ever-increasing dependence on the Potato, and a corresponding lowering of the conditions of life. There was not the slightest advance in agricultural knowledge or industry. On the contrary—no account given by wandering Englishmen or by Low Countrymen, which may be thought highly coloured by anti-Celtic prejudices, can exceed in wretchedness the account by this descendant of the Clan Gregor in respect to the industrial habits of the Skyemen among whom he lived so late as 1838. The women alone did all the harrowing; whilst every implement and every



method of cultivation were alike barbarous and ineffective. Next came the final blow—the Potato disease of 1846. By that time the population of Tyree had increased to about 5000 souls—an increase probably without parallel in any purely rural district in the world. It may bring this abnormal multiplication more strikingly home to us, when we observe the fact that this single Hebridean Island added to its population during about 80 years a greater number of souls than were added to the population of the Cathedral City of Glasgow during all the generations which elapsed between the War of Independence and the Reformation.<sup>1</sup> It did this under the stimulus of a manufacture which rested wholly on Protective Duties injurious to the rest of the community—under the influence of a mindless contentment with a very low diet—and of an indulgence, not less mindless, in instincts which are natural in themselves, but which, like all other natural instincts, require the control of an enlightened Will. The love of offspring is a natural instinct which we share with all creatures. But educated men do not anywhere encourage their children to build hovels round their home, without reference to adequate means of maintaining a civilised existence. Even among the Birds of the Air, and the creatures of the Field, there is a wonderful, and even a mysterious law by which a wholesome dispersion is secured, and limited areas of subsistence are kept from being overstocked. It is a curious fact, quite common in the Highlands, that small areas of arable land which can never be enlarged from the nature of the country, are frequented by a single pair of Partridges, producing a single covey every year, which, even when never shot, never remain to multiply. It is true that Man has powers and resources which the lower animals have not. It is true that with every new mouth that is born, two new hands are born to feed it.

<sup>1</sup> *History of Glasgow*, by George Macgregor, 1881, Appendix, p. 530.

But it is not true that the two hands have power in all circumstances to earn new subsistence. Sustenance cannot be sensibly increased upon St. Kilda. Nature intervenes and kills off the children by a horrible and mysterious disease. Even those that remain live largely upon charity; and are now said to exhibit the moral deterioration which such dependence always causes, when it becomes habitual. This is an extreme case. But it is very little more extreme than the case of other Hebridean Islands. The love of Race is another natural instinct. But educated men do not cling to spots of birth when wider regions invite to wider duties, and to more fruitful works.

Sooner or later Nature finds out the sins and blindnesses of all her children. We know what were the results of the Potato famine in Ireland, where it fell on a population which had never been redeemed from a terrible continuity of Celtic usages, and had never enjoyed the opportunities afforded to the people of Tyree, by the abolition of Middlemen, by the formation of separate holdings, and by rents kept down to a low rate on purpose to let them live with exceptional ease. The same effects resulted where all these opportunities had been afforded, but where they had not been put to the right use by minds adequately prepared. There was imminent danger of starvation. It was prevented by charity—the charity of Proprietors generously aided by the charity of the Public. This charity was rendered effective in the Hebrides by the comparatively limited area of distress. The rest of Scotland suffered great losses in one article of produce and of sale. But no part of Scotland suffered any danger of famine, except those parts of it where the old mediæval ignorances had been suffered to survive. There never was so clear a lesson. Conviction was forced on the poor people of the Island of Tyree, and they addressed to Sir John M'Neill, who was then at the head of the

Board of Supervision for the Poor, an earnest and even a passionate petition asking for assistance to emigrate to Canada. I have nowhere seen a more forcible and more conclusive plea set forth in favour of this remedy.<sup>1</sup> It fell to the lot of my Father and myself to respond to it. At great cost we enabled upwards of a thousand people to go where they could put to use the admirable elements of character which never fail to be exhibited by Highlanders when they move out into the stream of the world's progress. When I visited Canada and the United States in 1879, I had the warmest invitations from Highlanders who had emigrated; and the accounts of success were universal.

I take but little merit to myself, that in the face of proofs so ample, and of results so terrible. I determined—with due regard to local circumstances, and to a past which could not be too suddenly reversed without hardship—to return to the principles which—starting everywhere from the same conditions—had secured the wealth, the comfort, and the civilisation of the rest of Scotland. Subdivision was stopped. Existing subdivisions, when vacant from death, insolvency, or migrations, were never put up to competition, as they would have been under Middlemen. They were invariably added to the holding of the nearest neighbours who could take them. Some new Tenants from the Low Country were brought in, who could show new methods, and introduce some circulation of ideas into a stagnant air. By the steady prosecution of this process during forty years, some approach has been gradually made to the condition of things which was aimed at by the old Field-Marshal. With the increasing size of holdings, comfort and prosperity have steadily advanced. But the tendency to revert to ancient habits reappears from time to time; and the encouragements of a very ignorant sentiment “out

<sup>1</sup> See Appendix II. p. 488.



of doors " has lately led to an attempt to go back through the paths of violence to the ruinous practices of the past, in spite of all reason, and in spite of a long and a terrible experience.

I have spoken of the wonder that must often strike us when we look back on the slowness of Mankind in opening their eyes to the most obvious facts of nature, and to conclusions of the reason which now appear to us quite as obvious as the facts. There is one signal example of this connected with the history of a large part of Scotland, which applies not to the poorer, but to the more educated classes, and especially to the Landowners. An immense area of the Western and Northern Highlands is occupied by high and very steep mountains. We have seen that only little bits of them were ever put to any use at all under the old system, and even those bits were used for only about six weeks in the year. For several generations it had been known in the Border Highlands that such mountains were most valuable grazings for sheep, which could be fed in thousands upon their steepest surfaces, and could remain on them all the year round. Yet it was only very slowly and very late that it dawned upon Farmers, or upon Landowners, that the Highland mountains could be put to the same use, and could be thus redeemed from all but absolute waste. The enormous addition made by this discovery to the natural produce of the country, is very apt to be forgotten now, because of the great ignorance prevalent on the extent of area which was thus, for the first time, made contributory to the comforts and sustenance of mankind. On my own estate there is one Mountain which, with its spurs and peaks and shoulders, occupies more than 20,000 acres. Of this great area only about 500 acres are arable, and many of these have been reclaimed and enclosed at great cost, within the last fifty years. Of the rest, probably not more than 1000 acres would be available for Cattle. All



BEN MORE, MULL, VOLCANIC MOUNTAIN.





the remainder, at least 18,500 acres, are very steep, and many of them either actually, or almost, precipitous. No other animal except Sheep could, or ever did, consume the grasses which clothe these surfaces more or less abundantly. Yet they can and do feed some 8700 Sheep, without interfering with the comparatively few Cattle which were ever reared in the olden time. If, now, we look at an Orographical Map of the Highlands, we shall find that this case is the typical case of the Western Highlands and of the Northern Highlands, embracing the larger half of the Counties of Inverness, Ross, and Sutherland. Sir John Sinclair calculated that before the introduction of sheep-farming, the whole produce exported from all the Highlands did not exceed £300,000 worth of very lean and poor Cattle. Under Cheviot Sheep he shows that the same area would produce at least twice the value of mutton, or £600,000, besides all the Wool, equal to a further sum of £900,000. This Wool, again, when manufactured, would represent a value of at least £3,600,000 of Woollens. The total difference therefore between the produce of the Country under the new system as compared with the old, was as the difference between £600,000, and £4,200,000—this difference being all added to the comfort and resources of Mankind.<sup>1</sup>

It does seem almost incredible that Highland Landowners and Tenants should have been so slow to find out an application and a use for the Moors and Mountains they occupied or possessed, a use which in reality constituted as much the addition of a new country as the recovery of the Bedford Level from the Sea. The Mountains round Moffat in Dumfriesshire are hardly less steep or less high than the Mountains round Loch Maree in Ross-shire, or round Loch Laxford in Sutherland. The Highland Mountains had even an advantage over the Border

<sup>1</sup> *Agricultural Reports*, vol. iv. p. 185 : Northern Counties.

Mountains, that they were nearer to the Gulf Stream, and snow lay less long upon them. Yet the stupidities of Custom and Tradition were so difficult of removal that Sheep-farming spread as slowly as the Potato, or the manufacture of Kelp. No doubt the new Sheep-farming involved some local displacement of population, because Sheep could not be supported without access to low ground, which was sometimes occupied by "Clachans," liable to periodical distress and famine. But this displacement of population was far less than that which had been involved all over the Low Country by the abandonment of Runrig, and in the Border Counties by the Sheep-farming which had superseded the Moss-troopers. Neither again did it involve necessarily in all cases very large farms. The Highland Counties have at this moment a much greater variety of holdings in respect to size, than the most thriving Lowland Counties. Neither again did it involve any general substitution of Lowland farmers for Highlanders. Some of the earliest sheep-farmers were Highlanders who had acquired capital by industry. Others were Lowlanders who brought knowledge of management, and imparted it, to the immense advantage of the country. It remains therefore a wonderful example of the slow progress of new ideas that the Highland Proprietors adopted Sheep-farming on the hills so slowly and so late as they actually did. Although it began as soon as 1768, it was not universally applied to the wasted areas till as late as 1823.

But there is another phenomenon, even more wonderful, which is equally common—and that is, the coming back of old blindnesses—the revival of old errors—and even the passionate return to practices which Nature has condemned. Yet this phenomenon has its analogue in the material world as well as in the World of Mind. It is now universally admitted that Development, or Evolution,





LOCH MAREF, ROSS-SHIRE.





does not always work in one direction. It works downwards as well as upwards. As Tennyson expresses it—"Thronèd races may degrade."<sup>1</sup> There is even reason to believe in a constant force tending to revert to earlier and ruder stages of existence. Whether this be so or not, the fact is certain that there are many creatures that fall from a comparatively high, to a comparatively low, organisation. The freedom—nay the very organs—of locomotion are abandoned and cast away. Even the noble faculty of vision is lost. The creature becomes fixed to a bit of rock, or to the shells and exuvixæ of dead things. So it is with Man. At the beginning of this Work I have referred to the influence exerted over our longings and desires by the pressure of modern life—the "*fumum strepitumque Romæ*"—the strain of Work in the pursuit of Wealth—or the not less trying strain of Mind in a speculative age in the quest of satisfying Truth. All this tends to throw a most false glamour on the ages which have passed. The old tastes for a Wild Life return upon us, inherited through many generations.

Most of us know the feeling. It is pleasant to return to childhood, and the pleasures of imagination. I never read any detailed account of so-called "primitive" life in any of the happier climates of the world, without at least some passing feelings of desire to join in its freedom and pursuits—to live in Pile Dwellings on the lagoons of a Coral Sea, or in huts on the tops of trees—to watch the Birds of Paradise in the Forests of New Guinea—to shoot reedy arrows at the great Ground Pigeon—or to hunt for the wondrous hatching-mounds of the Brush Turkey. Not less attractive to other tastes would it be to go back to the Epoch of the Clans,—to sail, and to fight, and to spoil in beautiful Galleys, with all their bravery of war. It is perhaps less easy for civilised men to think with any envy of the old Celtic habits—of the wattled huts, jointly

<sup>1</sup> *In Memoriam*, Canto 128.

inhabited with the cows and calves—of the perpetual atmosphere of Peat-reek—of all the hardest labour left to women, and of seeing them yoked to Harrows as described by Mr. Macgregor, writing as late as 1838. But imagination has a wonderful power of winnowing out all facts that are disagreeable, and of resting only on those which have a flavour of the picturesque. We have seen that not only the charm and glamour of these old habits, but the actual delight of exercising the powers of “Chiefern” with which they were inseparably connected, had been strong enough to corrupt the noble chivalry of Norman Barons, so that even a man near in blood to Robert the Bruce had descended to the level of a mere “Wolf of Badenoch.” We have seen how, in a much later day, another conspicuous example of the same influence had been displayed by Sir James Macdonald, who was known in the Palaces of the Kingdom as a most polished and accomplished Knight—but who, when he returned to Islay or Kintyre, became the bloody and the fierce Macsorlie. In our own time it has too often an influence not indeed so formidable in action, but hardly less corrupting in opinion. Harmless in the form of mere sentiment and poetry, it ceases to be harmless when it perverts History and loosens the hold of Mind over the rights and obligations upon which every Society must be built.

In this form it acts as a solvent upon Opinion which is the root of Law. It subordinates the Reason to Fancy—it elevates the ignorant Declamation of the Platform over the responsible decisions of the Bench. This is a return to the power of “Chiefern” not in its ancient and nobler form but in a new and debased embodiment. It is a reversion, as Darwin expresses it, in Biology, to an old and ruder type. It is however worse than this. It is a mere travesty and corruption of that violence against which the Monarchy and the civilisation of Scotland had to wage for centuries one long con-



tinuous war. It is the true modern analogue of the worst Anarchy of the Clans.

It is curious to observe the different direction which this kind of sentiment has taken in regard to the country formerly inhabited by the Border Clans. That country has been infinitely more changed and more depopulated than the Celtic Highlands. The vast stretches of moorland, and the long vista of vacant Glens which strike the eye on the borders of Dumfriesshire and the Upper Wards of Lanarkshire, are far more desolate of human habitation than any similar areas in the Highlands possessing equal possibilities of reclamation. But more than this: the greener and lower Valleys which are so beautiful in Selkirk and Roxburgh, are almost entirely destitute of the smaller Holdings which are abundant and successful all over the Counties of Argyll and Inverness. How does true Poetic Sentiment deal with the memory of the days when these Valleys were full of a military population—when a few powerful Chiefs could summon at the shortest notice armies of 10,000 men? It sings of those days indeed. But the Singer does not pretend to wish that they should return. Let us listen for a moment to the melodious words in which the great Minstrel of the Borders recalled the Military Ages of that pastoral land in which, when a child, he lifted his little hands to the lightning in a raging Thunderstorm,<sup>1</sup> and shouted with excitement “Bonny, bonny!”:—

“Sweet Teviot! On thy silver tide  
 The glaring bale-fires blaze no more;  
 No longer steel-clad warriors ride  
 Along thy wild and willowed shore;  
 Where’er thou wind’st, by dale or hill,  
 All, all is peaceful, all is still,  
 As if thy waves, since Time was born,  
 Since first they rolled upon the Tweed,  
 Had only heard the shepherd’s reed,  
 Nor started at the bugle-horn.”<sup>2</sup>

<sup>1</sup> Lockhart’s *Life of Scott*, vol. i. p. 83.

<sup>2</sup> *Lay of the Last Minstrel*: Canto Fourth, i.

This is delightful and legitimate. But more than this would be childish. Scott himself became a Landowner in that very country—and latterly he possessed no inconsiderable Estate. He built a Baronial Hall. But he did not restore a Cottier Tenantry. He enclosed and planted. But he planted Larches. He did not invite the Workmen making high wages in Hawick or Galashiels to come back to starve on patches of corn and of potatoes along the once populous “Haughs” of Tweed. The unreality on which much of this kind of sentiment is founded was never more curiously illustrated than when the Government chose as the Head of a Commission appointed to inquire into the Small Tenants of the North and West, a Scotch Peer<sup>1</sup> whose own Estate is situated among the long “cleared” sheep pastures of the Southern Highlands, and in a locality which is specially described by Sir Walter Scott in *Marmion* as a perfect picture of solitude and depopulation.<sup>2</sup> This distinguished Scotchman has given elaborate advice to Highland Proprietors for the extension—not merely of small Holdings—but of the special form of these which is least advantageous—that of Joint or Township Farms. There is nevertheless not the slightest reason to believe that he himself or any of his brethren, would consent to cut up any portion of their great sheep grazings, or of their comfortable and single arable Farms, for the purpose of restoring the population of the Military Ages. Many Owners in the Lowland Counties now wish that they had, as the Highland Counties have, more small Farms, and fewer of the largest class. But no man who knows anything of Agriculture, or of the influences which promote its progress, would ever recommend the revival of the old Township System. In my own experience I have always

<sup>1</sup> Lord Napier and Ettrick.

<sup>2</sup> *Marmion* : Introduction to Canto Second. St. Mary's Lake.

found that the moment any "Crofter" becomes exceptionally industrious and exceptionally prosperous, he earnestly desires, above all things, that his grazings as well as his arable land, should be fenced off from those of his neighbours, so that he may have the exclusive use of his own faculties in the better tillage of his land and in the better breeding of his stock. The multiplication of small Farms, indeed, such as will profitably employ the whole industry and capital of individual men, is an object most desirable. But the conditions of success vary with every locality, and can only be determined by local knowledge. It cannot be settled by a vague desire to revive the usages of a time which has passed away for ever.

Sentiment, however, must never be surrendered to those who have little knowledge and no balance. Such are the men who are very apt to claim it as their own, whilst instructed men are too apt to leave it in their hands. Sentiment can be strong as well as weak—healthy as well as sickly, manly as well as mawkish. It can fix its enthusiasms on what is really good, as it too often does on what is only picturesquely bad. The cruelties, treacheries, disloyalties, and brutalities of the Clans were mere developments of corruption, due to the divorce between them and all settled Government and Law. They represented nothing but anarchy in their relations with the Nation and the Kingdom, and nothing better in their relations with each other. But the root and the principle of their organisation was that of a Military Tribe, recruiting from all directions,—practising obedience,—acknowledging authority,—and loving its hereditary transmission from those who had first afforded guidance, conduct, and protection. This is a constructive, and not a destructive or anarchic principle. It needed only to be turned in a right direction to become one of the steadiest of all foundation-stones for the building up of a great structure in the light



and air of a higher civilisation. It was thus that in the transition between the two Ages, the broken fragments of a hundred Septs enlisted under the Banner of the Black Watch, and began the immortal services of the Highland Regiments. Yet this is only a late and picturesque incident in a long series of events. Nothing is more striking or more poetic in the history of Scotland than the slow and arduous processes by which the rough energy of the Military Ages was transformed under the ages of industry and of peace. Malcolm Canmore had begun the transformation by his own Union with the Daughter of another blood. Robert the Bruce continued it by the welding of broken Races in the heat and fire of Battle. Between the War of Independence and the Union of the Crowns it was one long, continuous, constant, struggle. But by slow and steady steps the work was done, and Scotland became a Nation with a noble and a settled Jurisprudence. Our Kings became our only Chiefs: our Country became our only Clan. Her Law, the best symbol of her History, and the best expression of her Mind, became the only authority to which we bowed, and the only protection to which we trusted. Under its shelter man could have confidence in man, because there was no fear of that which even the old Celts ranked with Pestilence and Famine—the breaking of the Bonds of Covenant. In this high field of Human Energy,—the establishment of that confidence in Law which is the nearest approach we can ever make to the methods of the Divine Government,—Scotland may well be proud of the old beginnings, and of the steady growth, of all her National Institutions.

Among these Institutions there is one of purely native origin which, perhaps, as much as any other, is a striking embodiment of this principle, and a splendid illustration of its effects. I refer to her Banking system. Barter, as we all know, is the earliest form of Exchange, and under that system

if the Seller can bring his produce to a market, and the Buyer can carry it away in safety, no higher kind of security is required. Then comes Money as an abstract representative of Value, immensely facilitating Exchange, by providing an article with which, and for which, everything can be got from somebody. Lastly comes Credit, the highest and the most powerful of all agencies for promoting the intercourse of men. It is the highest because it is most purely the work of Mind—the most absolute expression of confidence in the universal authority of Law. In other countries the intervention of the State has been required to establish Banks, and the work assigned to them has been lauded as among the highest efforts of Statesmanship. In Scotland an immense network of Institutions for the universal diffusion and organisation of Credit, has been spread, as it were, by a natural growth indigenous to the soil. In Scotland there is a Bank for about every 4000 souls of the total population. Ten of them represent a paid-up capital of above Nine Millions sterling, and Deposits to the amount of more than Eighty Millions ; their Branches are all over the country. Thus everywhere men are able to take advantage, not only of their savings, but of the credit in which they stand for their character in business—that is for their honesty, their industry, and for all the mental aptitudes which give promise of success. The whole of this vast system of Credit is founded upon confidence in the Law—constituting a Wages Fund co-extensive with the possibilities of Industry and of Knowledge. It would all crumble at the touch of Anarchy. Under the confidence which this Reign of Law ensures, Mind in all its forms, whether of enterprise, or of invention, or of organisation, or only of patient perseverance, has made an entirely new world of Scotland. It has reclaimed her soil, it has deepened her rivers, it has built her commercial navies, it has brought into

her harbours the products of the most distant regions, and it has redeemed her own people, immensely multiplied, from chronic poverty and frequent famines.

There must be something wrong with ourselves, and not with the Order of Nature, or with the Designs of Providence, if we can find none of the pleasures of the Imagination, and none of the gratifications of Sentiment, in changes such as these. Nothing can be more certain than that we are but accomplishing part at least, and an essential part, of our mission in the world when we turn the desert into the fruitful field. Nothing can be more certain than that it is our duty to put our Talents out to Use, and not to hide them in a napkin. Most of these Talents have their poetic side. Slothfulness is not one of the Christian virtues, even when it is passed amidst picturesque surroundings. The Hebrew People were not devoid of Poetry or of Sentiment, and yet their Songs and their Prophecies are full of the imagery derived from the improvement of the soil, as well as of the precious and beautiful things which were brought in Commerce by the ships of Tarshish. With them the Olive, and especially the Vine, were the symbols of cultivated fertility; and in connection with the Vineyard, in particular, we have the most touching and passionate allusions to all the care and labour bestowed upon Enclosures as the best type and symbol of the work needed in the higher cultivation of the soul. The "fencing" of land, and the "gathering out the stones thereof," and the "planting" of it, and the building "in the midst of it,"<sup>1</sup> are as apposite a description of the work of Reclamation in Scotland as it was of the same work in Palestine. The taking away the "Hedge thereof," and the "breaking down the wall thereof" are used as the best Images of utter Desolation,<sup>2</sup> whilst the ravages of the wild

<sup>1</sup> Isaiah v. 2.

<sup>2</sup> *Ibid.* v. 5.



creatures which fences are intended to exclude are similarly used to typify the invasions of the sacred fields by the arms of Heathendom.<sup>1</sup> There is too, in the Book of Proverbs, a striking description of the ignorant and lazy habits which had afflicted Scotland: "I went by the field of the slothful, and by the vineyard of the man void of understanding; and, lo, it was all grown over with thorns, and nettles had covered the face thereof, and the stone wall thereof had been broken down. Then I saw, and considered it well: I looked upon it, and received instruction. Yet a little sleep, a little slumber, a little folding of the hands to sleep: so shall thy poverty come as one that travelleth; and thy want as an armed man."<sup>2</sup> Yet, beyond all question, the "pruned vine" is a much less picturesque object than the Briers and the Thorns which ignorance or violence may allow to choke it. On the other hand, the clustered grapes,—and the winds passing over fields of corn,—and the flocks browsing in perspective upon great plains,—and the sheep herded on the mountains—are all pictures full of poetry—far higher than that which circles round the deeds and the pursuits of half-barbarian Man.

We cannot go back to the Primitive Ages, whatever else we do. We must live in our own time, and we must put to culture and to use, such talents as come to us from the inheritance of the Past, and from the opportunities of the Present. It is a delusion to suppose that the sin of covetousness belongs specially to the later ages of the world. The naked Savage covets more of his beads, or of his bits of iron, as much as the civilised Man covets some new indulgence. Modern Industry has its own dangers, and its own evils, but the truth is that the pursuit of Wealth under the conditions of civilisation, having in it more of Mind than the same pursuit under conditions of Barbarism, tends to be better and higher in its moral

<sup>1</sup> Psalm lxxx. 12, 13.

<sup>2</sup> Proverbs xxiv. 30-34.

character. There is less in the mere getting, and more in the intellectual interest belonging to the processes through which the getting comes. The Machine Maker thinks as much of the perfection and accuracy of his work, as of the price he gets for it. The Shipbuilder thinks most of the fine "lines"—of the speed, and capacity, and strength of his ships. The Skilled Workman rejoices in his manual dexterity, and takes a pleasure, purely intellectual, in the triumph of his hands—in the straightness of his furrow—in his mastery over some difficult and intractable material. One of my earliest recollections is of the laborious and conscientious pains bestowed by my Father, as a Mechanic, on the high finish of the articles he produced—on the perfect symmetry of form—on the joinings which the finest touch could not detect—on the harmonies of colour and of substance. Throughout all the Kingdom of Labour—using that word, not in its vulgar but in its highest meaning, as including above all the Labour of the Brain—there is a Hierarchy or Gradation of rank corresponding to the degree in which the mere getting of Value is subordinate, and the production of excellence is predominant. The lowest rank must be assigned to the most purely mechanical—such as Commission Agencies—in which there is no skill, although the work may be useful, or even necessary, as part of the machinery of Distribution.

And most assuredly in this Hierarchy of Labour the work of the Improver and Reclaimer of Land stands very high in the variety and dignity of the motives which come before the mere love of gain. Time may be on his side, but generally it is time belonging to a somewhat distant future. A single successful voyage, one single turn of the market, may make and has often made the fortune of a Merchant. One happy thought flashing on the Brain of the Inventor, may reward him at a stroke with abundant wealth. But the fruits

of the Earth cannot generally be multiplied so quickly, and we see by the history and experience of the past, how difficult it has been to exercise the foresight, and to submit to the immediate sacrifices, which the laborious steps of a reformed Husbandry have demanded of those who live by it. The love of Agriculture is among the original instincts of our nature—as distinct from others as, in early ages, is the love of the Chase, or, in all ages, the love of Decoration. And amongst these original instincts it is unquestionably the highest and the best, both from the simplicity of its character and from the beneficence of its effects. With advancing education it suffers no decay. On the contrary, it charms and elevates the mind in proportion as it exercises us in our great commission over Nature, and brings us into closer contact with those “abodes where self-disturbance hath no part.”<sup>1</sup> The sentiment which prefers to these attractions the far-off echoes of the Spear and Shield, or the alternating indulgence of fierce activity and of selfish idleness, is a sentiment unworthy alike of true Poetry, of true Religion, and of true Philosophy.

I have spoken of the natural causes which lead to forgetfulness of the work of Ownership in the Agricultural Improver—causes connected with the very completeness of that work, and with the total obliteration of the older surfaces which have been reclaimed. These are causes which lie in mere ignorance and want of thought. But, strange to say, this ignorance or forgetfulness has been stereotyped, and as it were enshrined, in doctrines which profess to be scientific. In this matter the Formulæ of Political Economists have been even more feeble than in the definitions of Wealth and of its Sources. Ricardo’s famous definition of Rent is a perfect example of that delight which men are apt to have in formal propositions spun out of their own brains,

<sup>1</sup> Wordsworth.



which have little or no correspondence with the facts of Nature. Abstract ideas are the high prerogative of Man, and he could not get on for a single day without them. All Language is built upon them, and the rudest Savage who can convey intelligence to his fellow is exercising the same power which may one day lead on his descendants to the peaks of science. Men practised Logic before the days of Aristotle, and the Inductive Philosophy before the days of Bacon. Political Economists are quite right to reduce within the terms of some abstract definition, if they can, those facts of human history and the nature of human transactions, which are the sources of Rent. But there are bad abstractions as well as good,—abstractions which do not take in more than a fraction of the facts, and that fraction perhaps the least significant of all. They may be true in a sense, and yet be valueless. That is to say, they may reproduce and represent with vividness some mere circumstance connected with particular results, and yet miss completely the essential conditions on which these results depend.

Ricardo's definition of Rent, as pruned and shaped under the fire of criticism by later writers, is not only true, but it is a truism. The Rent which any given piece of land will fetch is precisely the excess of its value over another piece of Land which is too poor to fetch any rent at all.<sup>1</sup> But we may well ask, like Eliphaz, the Temanite, when we hear such a definition as this, "Should a wise man utter vain knowledge, and fill his belly with the East wind?"<sup>2</sup> This definition is true, not only of the rent of land, but of the rent of all other things which fetch a price for hire. The admirers of it sometimes boast that the mere statement of it has all the force of

<sup>1</sup> Professor Fawcett expresses it thus :—"The rent of any land is the difference between its net produce and the net produce of land which pays a merely nominal rent."—*Manual of Political Economy*, 6th Ed. p. 117.

<sup>2</sup> Job xv. 2.

a self-evident proposition.<sup>1</sup> This, however, becomes very doubtful praise when we observe that the same self-evident character follows the definition when it is applied to the hire of a Costermonger's Donkey as much as when it is applied to the hire of a Farm. The value for hire of any particular Donkey is obviously the value of its labour above that of any other Donkey which will fetch no price at all for hire, but which works just enough to pay for its own feeding. So in like manner the Rent of any given House is the excess of its value for hire above that of some other House which would fetch no rent at all, but which is used by Paupers as a Hovel. In this form the proposition is true, but it is also barren. All the corollaries which have been drawn from it in later speculations, are not logical consequences at all, but are built up on verbal fallacies imported into the definition by the careless use of ambiguous words. It certainly does not prove, or tend to prove, that the Rent of agricultural land is no element in the cost of Production,<sup>2</sup> because whatever may be the truth in this matter, the Formula gives us no analysis of Rent, and tells us nothing of its sources or of its composition. It is not very easy to see how the hire of a Steam-Plough would be part of the cost of Production, whilst the hire of a drain or of a fence would not. Yet the hire of such improvements is a large element in Rent. Still less does the Formula prove that all the growing values in all the Products of Labour, tend to become absorbed in the Rent of land—a proposition in itself absurd, and opposed to all observation and experience.<sup>3</sup> The proportion of gross or total produce which goes to Rent is not greater, but, on the contrary, it is smaller, as Agriculture becomes more scientific. Nothing like one-third—the old Scotch proportion in rude ages—of the gross produce, now goes to Rent. One-sixth or one-eighth is more

<sup>1</sup> *Progress and Poverty*, Book III. ch. ii.

<sup>2</sup> *Fawcett's Manual*, p. 126.

<sup>3</sup> Henry George, *passim*.

near the average proportion. More than before goes to Muscular Labour; more goes to the breeder of Horses; more goes to the maker of machines; more goes to the seller of manures, and, in average times, more to the Farmer. The increase of Rent arises entirely from the enormous increase of total produce, and from a corresponding increase of demand. This is the reason why high rents are a sign of general prosperity.<sup>1</sup> If the sixth or the eighth of the total produce be only ten shillings, then the total produce per acre must be as low as £3 per acre or £4. This indicates wretched crops, or a poor market, or both. If, on the other hand, the rent of land be sixty or eighty shillings an acre, it proves that the total produce must be at least £18 an acre or £24—indicating abundant crops, and a good market. Both of these are the signs of general activity and increasing wealth among all classes. “A low rent,” says a well-informed writer, “is always an index of the poverty of the land, a thriftless and unscientific method of culture, or a want of enterprise on the part of both Landlord and Tenant.”<sup>2</sup> The inference that all values are absorbed in Rent is absurd. But whether true or false, such inferences as these have no foundation whatever in the Ricardo Formula, in so far as that Formula expresses a self-evident proposition. It has this self-evident character only when it is kept strictly to a purely quantitative relation. It defines Rent only as regards its amount or quantity, and in no other relation whatever. The moment it pretends to explain Rent in any other of its many relations to the Past, or to the Present, the Ricardo Formula passes beyond its province. It is a definition dealing with quantity alone—and dealing with that element in Rent in a form so elementary that its boasted self-evidence may freely be conceded. It

<sup>1</sup> I speak, of course, of Rents freely offered by free men, and usually paid.

<sup>2</sup> *Judicial Records of Renfrewshire*, by W. Hector, 1876, p. 319.



measures even quantity by a standard of comparison which is of no practical use whatever. It assumes a Zero line—the existence of land which will afford no Rent at all, or only a Rent which is nominal. It then announces the profound conclusion that all higher Rents are to be measured in respect to quantity by their elevation above this Zero line. This is a theoretical but a self-evident truth, even if we dispute as a fact (as well we may) that there is any land except naked rock, which will yield no Rent whatever.<sup>1</sup> But this self-evident truth is as naked as the only land which answers to its description. It tells us nothing of any practical or even of any speculative value.

By a curious coincidence I first heard this Ricardo Formula for defining Rent, set forth, many years ago, by Lord Macaulay—the only illustrious descendant and representative of the Clan on whose reclaimed lands I had been born and bred. He had evidently very little practical knowledge of the many economic elements which determine Rent, nor probably had he ever thought of tracing the Historical elements which explain its origin in the Past. On the other hand, at that time I had not myself studied the subject theoretically; whilst, practically, I had a good deal of instructive and significant experience. I recollect noticing the evident intellectual pleasure with which he expounded a Doctrine which can be so neatly expressed, and which assumes to set forth in so small a compass one of the most complicated of all the facts of History and of Life. Not less distinctly do I remember the sense of emptiness—the painful contrast, as it struck me, between the self-evidence of the Definition, and the sterility of it—not only as regarded any practical application, but even as regarded any satisfying theoretical analysis.

This is but one example out of many of those

<sup>1</sup> The most naked mountains in Scotland will hold a few sheep, and every sheep affords a rent.

methods of handling which have brought Political Economy into its present disrepute, as not only a "Dismal Science" but as a Body of Doctrine either actually deceptive or at least to a very large extent misleading. No doubt part of this eclipse in popular estimation, arises from nothing but ignorant rebellion against some truths which are as certainly ascertained as any other truths whatever. For this evil the only remedy, other than discussion, will be found in those practical results of evil which must always follow, sooner or later, from kicking against the pricks of Nature. This was the teaching, for example, as we have seen, which led men at last, in Scotland, to recognise the folly of Sumptuary Laws—of Laws forbidding men to sell or buy except through certain Corporate Monopolies,—and of Laws which pretended to regulate the price of anything. But Ignorances and Rebellions of this kind, affecting our obedience to those Supreme Enactments which are enforced by the high pains and penalties of Natural Consequence, are not the only cause of the wide revolt which now assails the teaching that passes under the name of Political Economy. Another cause is to be found in the fact that this teaching has been often most defective, and, not seldom, even thoroughly erroneous. One grand defect in it has been the comparative neglect, and sometimes even the complete elimination, as not belonging to its Province, of those agencies of Mind which are in reality the ultimate sources of all that is done, or enjoyed or suffered, in Societies of Men. In undertaking to reduce the growth of Nations, and the progress of Mankind, to causes as rigid and mechanical as those which govern the Material World, it has missed the highest offices which it is its duty to discharge. Political Economy, properly treated, ought not to be a Dismal Science. It ought not to present results emptied of all adequate recognition of the work done by Mind, and Heart, and Will. To pretend to explain the origin, or the

growth, or the distribution of Wealth—to explain anything, indeed, of the past history or present condition of Man, without full recognition of these great moving Forces, is like pretending to explain the cylinders, and the tubes, and the valves of a Steam Engine without any reference to the properties of Steam, and without any reference to the mechanical Invention by which its pressures are generated, concentrated, and brought to bear on Use. Against this kind of science, falsely so called, continual resistance and revolt is both inevitable and just. On the other hand, when the Science which deals with all these things, comes—if it ever does come—to be properly handled, and when all the facts of our complicated nature are marshalled in their due rank and order, it will be a Science full of all the interest, and of all the poetry, and of all the pure intellectual delight, which must belong to the contemplation and the analysis of Nature in the noblest of all her Provinces.

Nothing, for example, can be more interesting or instructive than to trace in the light of History the sources and the origin of those relations between men which directly or indirectly exist in all regions of the civilised world between Owners and Occupiers of the Soil. We need not fill our bellies with East Wind in artificial definitions of Rent which have nothing to do with either its origin or its nature. There is really no difficulty in arriving at a definition which is not artificial, but natural,—a simple description of facts,—and one which nevertheless immediately suggests questions leading up to higher and higher aspects of the truth. Rent is that which one man pays for the temporary possession, or exclusive use, of anything that is not his own, but is the permanent property of another. Rent is the price of Hire. As regards this essential and definite characteristic, it matters nothing what the thing thus hired may be. In common parlance Rent is usually applied to the Hire of land, or



of Houses, or of Mines, or of Fishings, but is not usually applied to the Hire of Horses, or of Carriages, or of other moveable property. Each of these different things has its own peculiar kind of use, and each special use holds out to us some special inducement to hire it. But no peculiarity in the nature of the use constitutes any distinction in the principle of Hire. That principle is the same in all cases in which we pay for the temporary possession of anything that belongs to another. What we pay for, when we hire anything, is the Exclusive Use or Possession of it, for a time. And the price we pay for this Exclusive Use is paid to the man who himself possesses it, and has the power of lending it. What we owe to him in the form of Hire, or Rent, is due to him because of his exercising in our favour his right and power of lending. If we want to have the Exclusive Use of a Horse, or of a Cow, or of a Cabbage Garden, or of a Vineyard, or of a Farm, we must hire this exclusive right for a time, if we cannot buy it out and out.

If we go further and ask how the Owner came to have that right of Exclusive Use which many other men can only afford to Hire, we shall find that there is no difference in principle between the different things over which this right has been acquired. It is true that the land of the Cabbage Garden, or of the Vineyard, or of the Farm has not been the creation of Muscular Labour. But neither have Cattle, nor Sheep, nor Horses been the work of Muscle. The breeding of them is the work of Nature, under the direction to some extent of a selecting Mind, and even this only rendered possible by the right of Exclusive Use over at least some grazing land. And so, although land is not in itself the produce either of Muscular or of Mental Labour, yet the Exclusive Use of any part of it has always been originally acquired by the work of Mind. To seek the origin of this exclusive Right of Use we must go back to the Conquering Tribes

from which we are all descended. And then, again, to explain how they came to conquer, we must always go back to some time, whether within the area of History or beyond it, when the Men of Muscle surrounded some Man of Mind, lifted him perhaps on their shields and shouted, "Be thou our acknowledged Strongest."<sup>1</sup> In our own country this tracking of the ultimate sources of Ownership leads us along no doubtful path—no mere faint indications interpreted by theory and speculation. The footprints are revealed to us in no dim light of mere tradition, but in the full blaze of History. We see men crowding under the banner of powerful Chiefs, and seeking "rooms" of land under their protection, because of the security it held out to them for Exclusive Use. We see our early Kings, with the consent of Barons, Clergy, and People, acknowledging the power of those Chiefs as a Power which had been established long before, and tendering to those who held it a new Form of Record as a reward for new, but immortal, services. Poetry and Sentiment could hardly have a better subject. The Recording Instruments may have been long lost—they may be now reduced to pulp in damp cellars, or in neglected Charter-Chests—or they may have been happily preserved with their old Parchments, and their old stately Seals. But whether surviving in this form or not, they live in the continuous transactions of perhaps a thousand years. That which men have been holding—that which they have been buying and selling during all these centuries—has been the Tenure which these Instruments record. Over the whole of Scotland every morsel of land which is owned or hired for the exclusive use of any man, is held by him in virtue of the Rights of Predecessors in Title dating from before the times of Malcolm Canmore, or from the years of contest that were closed at Bannockburn.

<sup>1</sup> I borrow this from Thomas Carlyle, but I do not recollect the Work in which it occurs.

The aptitudes of Mind are infinite—or at least as various as all the varieties of circumstance in which the Human Species has been placed since it was born into the world. Nothing can be done without it—everything that has been done, has been done by it. In early ages, courage and conduct in War has been the form of mental energy most effective. But this is generally a compound of many qualities. The influence of some men cannot be explained. It is magnetic. In their presence other men become excited with a fire which is not their own. Without such Minds, mere numbers are of no avail—for the units become as incoherent as grains of sand. Such men become the Founders of Nations because of the confidence they inspire—of the ideas they represent—and of the Institutions which they inaugurate. One of the very first works which they accomplish is, the establishment of supreme and exclusive dominion over some portion of the Earth's surface for themselves and for their immediate followers. This right of Exclusive Use is subdivided and partitioned in a thousand ways. But in its essence and in its principle it is everywhere the same. It is, in its very inception, the fruit of Mind, and it affords the only fulcrum on which Mind can exert its higher powers over the Increase of the Earth during the more peaceful ages which follow, and are the rewards of, Conquest.

Examples have not been wanting in our own day, which exhibit the power of one gifted Mind so to discipline the forces of mere Muscle, and the labour of comparatively mindless men, as to lay the foundations of a civilised State. General Gordon was unquestionably one of those men—whose heroic nature represents, as Muscle never can represent, those supreme forms of “Labour” on which all Wealth, and Comfort, and Law depend. And it is remarkable that when he was first ruling as Governor of Khartoum, one of the most immediate and striking effects of



his dominion, was a revival of that cultivation of the soil which is inseparable from individual appropriation, or Exclusive Use. Tracts of land which had been desolate for generations, became cultivated again, simply because the Owners were secured under his dominion against the inroads of men who would not respect the rights of Exclusive Use. If General Gordon had been a Native Ruler, or a Native Chief, having extensive Territorial rights over the Soudan, and depending for the maintenance of his power upon native revenues, the private Owners to whom the fruits and rights of Ownership had been thus restored, would have been only too glad to yield to him no inconsiderable share of these fruits, which could not be enjoyed except under the protection he afforded.

There may be other cases in which the individual appropriation of land, and the acknowledged right to its Exclusive Use, has arisen from other causes. Indeed, it may be said with truth to be a universal and apparently a necessary fact in every portion of the Globe, and with every branch of the human family. One of the most prominent Socialistic theorists<sup>1</sup> who now denounce it, is himself one of a small group of men—less than one-quarter of the population of London—who claim Exclusive Use over the whole State of California, embracing about ninety-nine millions of acres, or 156,000 square miles of plain and valley, of mountain and of hill. No part of this vast territory is open to all mankind—except upon the conditions imposed by this small community. But like all other communities in like circumstances—like all the colonies of our own Empire—they not only practise the individual appropriation of land among their own citizens, but they recognise it as the foundation of their prosperity. What they all want is Settlers; and what all Settlers want is land on which they can exercise their industry for their

<sup>1</sup> Mr. Henry George of San Francisco.

own benefit and the benefit of the world. Some evidence of truth is always afforded by the universal instincts of Mankind. The celebrated test which has been put to very doubtful use in Theology, has nevertheless its own sphere of legitimate application — “*Quod semper — quod ubique — quod ab omnibus.*”<sup>1</sup> The most experienced travellers in Africa tell us that there is no portion of that vast Continent which is not claimed in Ownership by some Tribe, and the invasion of which by others would not be resented and resisted by those who thus claim its Exclusive Use. If there be any portions of the Earth’s surface where individual appropriation might be less absolutely necessary than another, as regards the means of subsistence, it would seem to be in those happy Islands of the Eastern Archipelago where wild and native trees bear the most nutritious fruits, and the vegetable world holds out the most lavish inducements to an idle communal existence. Yet I find in an interesting account of New Guinea by a Highlander who has devoted himself to Missionary Work in the Pacific, the following instructive passage respecting that immense Island:—“Far up the distant mountain sides, in the clear atmosphere of morning, we saw the smoke made in the Bush by cultivators of yams. The Teachers assert that every acre of soil along this part of New Guinea has its Owner.”<sup>2</sup>

There is no Political Economist, to whatever School he may belong, however narrow may be his formulæ, and however narrower still may be his use and his interpretation of them, who does not at least confess with his lips that “Labour” must be held to include every kind and form of Human Energy. Yet very few writers have really digested

<sup>1</sup> What has been held always—everywhere—and by all men;—the test of Catholic orthodoxy, laid down by St. Vincent of Lérins, A.D. 434.

<sup>2</sup> *Work, and Adventures in New Guinea.* By James Chalmers, 1885. This distinguished missionary is a native of Argyllshire, and was educated in the Parish of Inveraray.

this truth,—have taken adequate account of it in their reasonings,—or have attempted to follow it to all its consequences. The great difference between the wages of Skilled and of Unskilled Labour is one of the most rudimentary facts of Life which indicate the value of the mental element even in its simplest forms. The simplest of these forms is that in which some special faculty of Perception is united in the same person with the Labour of the Hands. But all the higher forms of Mental Energy are, for the most part, not united in the same person with the Labour of the Hands. It is the value and effect of these higher Energies of Mind which are most habitually forgotten, and in almost all Treatises on questions of human Progress the word Labour gradually slips down—and down—in its use and signification, until practically it means nothing but the Labour of the Hands, with the more or less implicit addition, only of the various degrees of mere technical or manipulative skill. “The producing Classes”—“The produce of Labour,” and many other similar phrases, are perpetually used as if Muscle only were concerned in the sources, or in the increase, or in the diffusion, of Wealth. Nothing can be more erroneous, and yet the error has never been sufficiently exposed. The Modern Socialist School are especially forgetful of Mind in all its highest and most operative powers, and are especially jealous of those facts—the most certain perhaps of all facts—which establish the natural, ineradicable, and far-reaching inequalities with which these powers have been bestowed by Nature on individual men. All the writers of this School dislike and avoid the subject, and, when they do deal with it, show how very little they recognise or appreciate the real facts of Nature.

The most signal example I have seen of the measureless difference between these facts and the Socialist appreciation of them, is the example to be found in some words of Mr. Henry George: “I doubt if any good observer will say that



the mental differences of men are greater than the physical differences.”<sup>1</sup> Here we have a comparison made between two things which are absolutely incommensurable. It may be quite true that the tallest Giant ever known is scarcely more than four times as tall as the smallest Dwarf. It may be true that the average difference in height between men does not exceed one-sixth, or one-seventh of the whole stature. It may be true that the scale of difference in muscular strength—in the lifting of weights, for example—is a scale not much wider in its extremes. But most certainly it is not true that even in those lower manifestations of Mind which constitute mere manual dexterity and skill in handicrafts, the differences between men, are like mere bodily differences, either in kind or in degree. A short man may be as good for all manly work as a tall man—or an ugly man as a man of the most perfect form. But in Mechanics, or in Chemistry, or in Art, the corresponding differences of skill make the whole contrast between work which is useless or effective—healing or poisonous—hideous or of surpassing beauty. To Be, or Not To Be—this, and no less, is the question which may depend, and often does depend, upon the degrees of Faculty with which the eyes are directed, or the hands are moved. Still more futile is this comparison of physical distinctions as any illustration of the differences which separate one man from another in the higher faculties of the Mind. The difference between a dull man and a man of genius—whatever the particular line of that genius may be—is a difference so immense as to be immeasurable. The scale is one which reaches from Zero to a practical Infinity. Moreover, it is a scale of difference applicable above all to those kinds of Work on which Society is founded, and by which its progress is determined. There is no scale that can measure the difference, in

<sup>1</sup> *Social Problems*, p. 69.

actual working value, between the Mind of James Watt and the Mind of the most skilled Workmen whom he employed to make, first, his Models, and then, his Engines. But great as this difference is, it is perhaps exceeded by the difference between the average faculties of ordinary men, and those rarer gifts which in the early stages of Society are concerned in founding its Organic Structures, and in establishing its Opportunities of Growth. Yet as regards physical powers, there is often little or nothing to distinguish between such men; and certainly no physical difference could even be a symbol, however imperfect, of the differences of level on which they stand.

It is one of the regrets of my life that I once had a long interview with General Gordon when I did not even know who he was. It was before the time of his greatest fame, but when in a very distant region he had done enough to indicate what manner of man he was. There was, however, nothing in his outward appearance to arrest attention. There was no aspect of command. There was no look of genius in his almost cold, grey eye. There was no indication in his calm manner, of the Fires of God that were slumbering underneath—of the powerful yet gentle nature which was equally at home in the “confused noise” of Battle, in the teaching of poor children, or in the comforting of a deathbed. Yet General Gordon was one who even then had saved an Empire, and had rescued, by his own individual example and force of character, a whole population from massacre and devastation. Not, perhaps, very tractable in council—sometimes almost incoherent in speculative opinion—he was, beyond all question, a born Ruler and King of men—one who in early ages might have been the founder of a Nation—the Chosen Leader of some Chosen People on the way from intertribal wars and barbarism to peace, and Government, and Law. To say of such men as Gordon that the difference

between them and the common herd, is no greater than the difference between men of the biggest and the smallest size of body that may be picked off the street, is to betray a profound ignorance of the causes and the forces which have governed the history of Mankind. Nor does it need such an extreme case to illustrate the fallacy. The varieties of Mind are infinite, and the pre-eminence of one over another in some special faculty—some single gift—may, and often does, make the whole difference between victory and defeat—between triumphant success and total failure, in the race of individual life, and in the struggle between Tribes and Nations.

The protection of the Powerful has been in all ages the earliest shelter for the beginnings of industry and of wealth. In our own country we have traced these beginnings from before the dawn of History—when Power was establishing itself through all the various gifts and aptitudes which made some men Kings, and Chiefs, and Leaders, by clustering round them all who could not otherwise defend themselves. The Exclusive Use of land, whether by small groups or by individual men, has always been absolutely necessary for the production and enjoyment of even the simplest of its fruits; and this Exclusive Use could not be had without coming under the protection of those who had become Owners, who could defend their Ownership, and who could defend also those to whom they let it, or lent it, for a time. Rent, originally and historically, was the price men were too glad to pay for this protection. This element in Rent is still expressed in every Lease by words which in one form or another have been continuously used for 700 years, and which embodied in language understandings which were necessary and universal. They are words which convey the promise that Tenants will be protected in their Exclusive Use “at all hands, and against all mortals.” Some-



times the words were shorter—"against all deadly." This was the Occupier's Tenure. This was his Security. This was the one fundamental advantage for which men owed, and gladly paid, some portion of Produce, or of their own Muscular Labour, or of both.

But from very early times another element was added to the benefits for which Produce and Services were paid. Owners lent not only the Exclusive Use of land, but also the cattle by which the land was stocked. We have seen that this form of what on the Continent is called "Metayer," was common over the whole of Scotland under the name of "Steelbow."<sup>1</sup> Next came a further change—another addition, or rather another great group of additions, to the benefits for which Rent was paid. These additions included, in the first place, all those exercises of Mind and of Authority by which ignorant and wasteful Usages were abolished, and all those by which the new methods of husbandry were taught and first established. They included, in the second place, all that we now know under the head of Reclamation and Permanent Improvements,—operations which have in all cases far exceeded the capital value of the Land before they began. The Burst of Industry which I have described as having begun to transform the face of Scotland during the latter half of the last century, did not end with a Burst, but has been continuous and increasing ever since. On this point I can speak from personal experience. Some parts of the "Old Coast Line" on which I have described the operations of Lord Frederick Campbell, were still left unreclaimed when I began the work of Ownership forty years ago. I found that the cost of bringing them into the condition of arable land was

<sup>1</sup> Among the Celts of Ireland this footing seems to have been equally common, and the Landlord's share of produce was two-thirds, one-third representing Rent for use of land, and another third for the stock also lent. *Manners and Customs of the Ancient Irish*, by Professor O'Curry, vol. i. Introd. p. 122.

not less than, and sometimes exceeded, £25 an acre. As in its unreclaimed state the land was not worth 5s. an acre of the coarsest pasture, this outlay represents one hundred years' purchase of its original value. Sentiment,—of one kind,—has often led me to desire to see, even if it were only for a moment, the aspect of our country when, before the days even of the Picts and Scots, it was covered by magnificent and continuous Forests—where not a stick has grown within the memory of Man, or within the records of authentic History. But as this revival cannot be, Sentiment—of another kind—has led me lately to dig up the trunks of the Caledonian Forest, and to cover with corn-fields some areas which have been for many centuries under bog. One of these seems to have been a glade shaded by giant Oaks. Here again my experience has been that the outlay is far beyond—sometimes forty and fifty times beyond—the capital value of the land as it stood when I began. But reclamations effected thus suddenly, and by one single operation, are few in comparison with those other reclamations which have been gradual and continuous during many generations—each successive work bringing up the condition of the land to the standard of knowledge existing at the time. I have found that in the West of Scotland, where there is a very heavy rainfall, and where great areas of country are far from Tileworks, the mere re-drainage of old cultivated land cannot be thoroughly done, at the present or recent prices of Muscular Labour and of Material, at a less cost than from £10 to £12 per acre; and this alone is very frequently more than twenty years' purchase of the former rent.

But there is another kind of outlay connected with modern husbandry which has been on an enormous scale, the work of Ownership in Scotland, especially during the last forty years. Up to about that time, over the greater part of the country,

it had been one of the customary stipulations in Leases that the Tenants should erect new Houses, with such assistance as in each case might be agreed upon. This stipulation was connected with the abandonment of Township Hovels, and of Runrig Tillage. The new class of Houses, although an immense advance on the old huts of Wattles and turf, were generally built of stone without lime and with roofs of thatch. Comfortable and commodious as these Houses often were when compared with the squalid dwellings which had preceded them, they still left much to be desired when compared with the advancing tastes and knowledge of the day. Accordingly, in almost all cases, Tenants taking farms during later years, have offered their new rents upon condition of getting the farms furnished with new Houses, both for themselves and for their Cows and other stock. On this branch of the Work of Ownership, I can also speak from a somewhat large and long experience. It is quite impossible to graduate the outlay on Houses according to the scale of Rent. Certain requirements apply equally to a Farm of £100 a year, and to a farm of £500 a year. I have rarely succeeded in building a "Steading" or complete set of Farm Buildings, under at least five years' outlay of the improved rent. Nine and ten years' outlay is common; and in the case of small Farms of between £100 and £200, the outlay has been as high as sixteen years of the rent. The general result is that the capital represented by Ownership in Scotland is seldom less than from forty to fifty years' rental, and is very often a great deal more. The average capital of Tenants is certainly less than five years of the rental per acre. I have elsewhere<sup>1</sup> specified the case of one farm in which the capital of the Owner represents the sum of £7046, whilst that invested by the Tenant would

<sup>1</sup> *Nineteenth Century*, No. 106, Dec. 1885. "Capital and the Improvement of Land."



represent, on a liberal computation, not more than £966. The results of any improvement which such a Tenant can make upon his farm must be always in greatest measure due to sources which he did not contribute. He is trading on the capital, on the previous improvements, and on the ancient Ownership, of other men. Yet there are politicians and economists who recommend that a Tenant who builds a new piggery or a new silo, at the cost of some fraction of a year's rent, should be allowed to deprive Owners of the rights which flow from centuries of Tenure and of outlay, by selling the occupancy which has been lent to them for a time upon stipulated conditions.

These facts, and a host of others correlative to these, open up an immense subject. If writers on Political Economy and on Social problems of any kind, would not only say, but would practically remember that Labour means every form and kind and degree of Human Energy, and most especially all those kinds which were the earliest and are the highest, their "Science" would not be the dismal, lean and erroneous teaching which too often it has been found out to be. Abstractions from which everything has been subtracted that ought to have been included—arbitrary selections and as arbitrary rejections among the elements contributing to great results—slovenly analysis, and complete forgetfulness of essential things which are by way of being left to be understood,—all these sources of error leave but a poor and beggarly account of the inexhaustible riches and Poetry of Nature, in the true history and progress of Man. The multitude of mental agencies, and of powers—the complexity of the sources, and of the opportunities of work—dating back through many centuries, with which, and upon which, every man trades in Scotland who hires any land belonging to another—but none of which are due to the hirer—are but the type of a general truth, affecting more or less all callings

or employments. When Men are taught that they ought to have the "whole value of their own Labour," they are never taught to count and estimate all the factors which go to make up the total value of results to which, perhaps, their own contribution may be the smallest. They do not think of the Capital which is the savings of Mind, of the Organisation which is the invention of Mind—of the Enterprise and Confidence which are the expectations of Mind—of the Law which is the embodiment of Mind,—on all of which the whole of their own opportunities have absolutely depended. And yet these considerations are not founded on theory or speculation. They are founded on indisputable facts, and are brought to light as facts by the very simple process of analysing with care and accuracy the conditions of our own life, and the meaning of the commonest words in which we instinctively express them.

The great interest and value of the history of Scotland regarding all these matters, lie in its splendid continuity. Like the days of the Poet, our generations have been "bound each to each by natural piety."<sup>1</sup> From the days when her early Sovereigns, in the Eleventh and Twelfth Centuries, gathered round them the Barons and Knights and the Burgesses of the Kingdom, and gave them new Instruments recording and defining the rights and powers which they had even then immemorially enjoyed—from the time when Robert the Bruce emerged triumphant from the War of Independence, and transferred these rights and powers from men who had been faithless, to men who had been faithful to their Country—from the time when he rewarded by a fresh and noble Tenure those who had stood by his side from Methven Bridge to Bannockburn,—the history of Scotland has been one long and steady development of the Reign of Mind in Government and in

<sup>1</sup> Wordsworth.

Law. The amalgamation of Races—the blending of interests—the fusion of Classes—the freedom of trade—the local movements of population in the rise of new industries,—these have been the lines of its long rough but steady march from extreme poverty and rudeness, to great wealth, and great achievements in every walk of intellectual exertion.

There are drawbacks and limitations to progress in all Nations, and it would be alike foolish and dangerous to forget them. But it is certainly not true that the immense increase of Wealth in Scotland since the Union has been an increase not widely distributed over the bulk of her population. The wages of her artificers, by no means the highest in skill, who are now employed on the Industries of the Clyde, amount very often in a single month to more money, with ten times the purchasing power, than the whole yearly income enjoyed by their fathers a hundred years ago. The same contrast is presented in every walk of life. The Houses and Cottages which all Owners have been building for Tenants during the last fifty years, are palaces compared—not only with the huts of the corresponding classes in the Military Ages, but compared even with the Houses lived in by powerful Chiefs not longer than a century and a half ago. The multiplication of Villas and Houses of a high class along all our shores, and round the old centres of our great cities, represents an immense aggregate of comfortable means among all the classes engaged in Trade and Commerce. The condition of our great cities is justly attracting attention, and much remains to be done for them in lines of action which cannot be too earnestly considered. But the more carefully we look into the Past, the more we shall be thankful for the general direction of the path in which, as a Nation, we have been led.

No man was more deeply versed in the literature



of the Past—in the details of life during the Military Ages—than the late Mr. Cosmo Innes. He did not escape altogether from that curious form of Sentiment which tempts us all at times to long for a Wild Life, and to wish that our wild land had remained for ever unreclaimed—that our mountains had remained for ever waste. Under the influence of this strange glamour, which, as we have seen, never has any power as regards the Lowlands, he has allowed himself in one passage to take strange liberties with History and with Logic. He suggests that all the wild surfaces of our Country were not really intended to be conveyed by Charter, because in those days they were not really thought of. Yet in another passage of the same Essay, when dealing with the express words of these Charters, which carefully and exhaustively enumerated every variety of surface within the boundaries of an Estate, he explains that these enumerations were introduced *ob majorem cautelam*<sup>1</sup>—or, in other words, from the very excess of thoughtfulness. Of course this—the only irrational passage in all the writings of a very learned man—is the only one ever quoted by the irrational and the sentimental. Yet I know few writings more rich in evidence of all the leading facts and inferences which have been set forth in the preceding chapters—those especially which show us at once the connection and the contrast between the past and the present condition of our country. The original identity of Celtic Institutions with those of the other Northern Nations—differing only in the longer survival of early customs, and in the want of any code to define or fix;<sup>2</sup> the gradual adoption of Saxon Laws, not as alien or as the result of conquest, but because there was nothing definite to be displaced, and because those laws were in their nature “the most approved—the most civil;”<sup>3</sup> the extent of exactions imposed upon the people during

<sup>1</sup> *Scotch Legal Antiquities*, compare p. 45 with p. 155.

<sup>2</sup> *Ib.* pp. 97-8.

<sup>3</sup> *Ib.* pp. 95-6.

the Military Ages;<sup>1</sup> the fractionally small portion of the country which was cultivated at all, this portion being confined to a narrow strip on the river bank, or beside the sea;<sup>2</sup> the miserable use to which even those small areas were put that were grazed at all—just serving to keep the cattle from starvation; the constant quarrels arising out of the common use of pastures;<sup>3</sup> the great excess of population which arose in the Glens over the number which the country could support with its own produce “or honestly;”<sup>4</sup> the enormous waste involved in the neglect and utter vacancy of vast areas of mountain land—stretching, on one Estate, across the whole of Scotland from sea to sea, and yielding literally nothing to represent “the thousands and millions of sheep which graze them now;”<sup>5</sup> the beginnings of improvement in the obligatory stipulations imposed on Tenants by Owners in the terms of Leases, so early as 1511;<sup>6</sup> the enforcement of all such stipulations by the penalty of removal or dismissal from the Estate;<sup>7</sup> the safety of the evidence that the small cultivators and subtenants, now called Crofters, were then Tenants at Will;<sup>8</sup>—all these, and many other kindred facts, testify, first, to the rude and barbarous condition of our ancestors, and, next, to the powers and processes by which their children have been raised to an acknowledged place among the most civilised nations in the world. The contrast is indeed astonishing. “Always on the verge of famine and every few years suffering the horrors of actual starvation”—such are the words in which this careful Historian describes the old condition of the Highlands.<sup>9</sup> There is no wonder that he is roused to something like enthusiasm when in the case of a particular Estate,—that of the Campbells of Cawdor

<sup>1</sup> *Scotch Legal Antiquities*, p. 276.

<sup>3</sup> *Ib.* p. 268.

<sup>6</sup> *Ib.* pp. 250-2.

<sup>9</sup> *Sketches of Early Scotch History*, p. 424.

<sup>2</sup> *Ib.* pp. 154-5.

<sup>4</sup> *Ib.* p. 269.

<sup>5</sup> *Ib.* p. 263.

<sup>7</sup> *Ib.* p. 252.

<sup>8</sup> *Ib.* p. 251.

in Nairn,—he sees and describes all the poetry of a most blessed change :—“The woods now wave over the grey Castle with a luxuriance of shade which its old inhabitants never thought of. Above all, the country round, of old occupied by a half-starving people, lodged in houses of ‘faile,’<sup>1</sup> disturbed by plundering neighbours, and ever and anon by the curse of Civil War, is now cultivated by an active and thriving Tenantry, with the comforts which increasing intelligence and wealth require and supply.”<sup>2</sup> This is a beautiful vignette. But, again, this is only a little bit out of a wide landscape, which carries into the mind, through the eye, certain convictions in which we cannot be deceived.

And so it happens again that Mr. Cosmo Innes when, in another Work, he finds himself in contact with the actual records of old times, and with the picture they present of life and manners, was, as we all must be, recalled to the realities of historic truth. In closing his Preface to that instructive record of life on a great Highland Estate during three Centuries, which is contained in the Book of Taymouth, he expresses his general conclusion in these remarkable words :—“While there is enough of romance in the glimpses here opened of the rough life of the ‘good old time,’ it is pleasant to think that while much is changed, every change has been for the better. The country which these papers show us in so wild a state of lawless insecurity has for the last two centuries steadily improved, and the process has not been more marked in the face of the country than in the moral and physical condition of the people and their social happiness.” Yet this is spoken of a district in the Highlands from which there was as large a movement of population, in connection with the Industrial Age, as from any other portion of the country.

Among the many delusions which a false sentiment has promoted there has, perhaps, never been

<sup>1</sup> “Faile,” turf.

<sup>2</sup> *Sketches*, p. 436.



a delusion more complete than that which imagines that in early Celtic Customs or traditions, as distinguished from the corresponding Customs and traditions of the Teutonic Nations, there was any element which, if it had been left alone, would have built up some Polity better for the mass of the people than the Polity which actually arose, out of the amalgamation of the races, in England and in Scotland. As it so happens, we have historical evidence on this subject, more ancient, more continuous, and more conclusive, than on any other subject whatever connected with the rise of civilisation in any part of Europe. In an earlier chapter I have already referred to the curiously narrow and local, but attractive culture of the early Celtic Church. It is beyond question that the Monks and Priests of that Church had some culture and some letters in a literature purely Celtic, at a time when the other modern European nations were either sunk in utter barbarism, or at least were so little advanced as to have nothing of the same kind. But from this very fact we have an amount of evidence in respect to the condition and habits of these Celts, which we do not possess in respect to any other European race whatever at the same date. In the *Annals of Ireland by the Four Masters* we have a continuous Chronicle which is supposed, on good grounds, to be substantially authentic from the Second Century of the Christian Era. Even if this very early date be doubted, there seems to be no doubt whatever that these Annals are authentic from at least the Fourth Century, and they are continuous down to the middle of the Seventeenth. They present to us all the chief incidents of each year which were considered worthy of record by men of the most educated and intelligent class in Ireland. The result is to show that not only were the whole conditions of Society barbarous in the sense of being rude, rough, and violent—but that they were barbarous in the sense of being

exceptionally savage, and without a trace of amelioration or of progress towards better things.

There may be a high interest attaching to Warlike Tribes—if their Wars have in them even the germ of contests animated by nobler passions than the mere thirst for blood, or the mere triumphs of revenge. But we may turn over page after page of these *Annals* without seeing even one solitary symptom of the crystallising forces which begin the Organic Structures of Civilisation. Every page is a sickening repetition of intertribal battles, murders, and devastations. Taking only the period before the English Conquest by Henry Plantagenet, we have the record of about 700 years. Not one single step can be traced through all those centuries in the path of progress. On the contrary, the country was getting worse and worse. And yet there was Poetry and Sentiment—of a kind. One of the most curious features of the Monkish Journals is the constant bursting of the narrative into verse—couplets and quatrains of rhythmic utterance. Few of us can judge of any beauty which may belong to them in the Erse. But we can all judge of the meanings and passions which inspired them. There are some allusions to Nature—to the Sea—to Rivers—to Mountains—which are poetic. But the animating spirit is almost purely ferocious—with nothing of the higher sentiments which we understand as Patriotism. No deeds of massacre, however dreadful, are ever narrated with rebuke—still less any acts of mere plunder—unless, perchance, any of these should have been directed against Ecclesiastics. Then indeed the culprit “King” or Chief is denounced as a monster, and some rival King or Chief is incited—in piteous or in furious appeals—to punish him with death and with the devastation of his country. Thus in the year 733 we are told in the *Annals* that a Celtic King had ventured to practise upon some Church or Convent one of those exactions, “Coigny,” which were

universally practised against all the laity. He had forcibly taken some "refection" from a Church called "Cill-Cunna." For this offence another King was incited by "Congus, successor of Patrick," to take bloody vengeance on his too hungry rival. As usual there was a great battle. On the way to it the avenging King bursts into this characteristic poetical effusion:—

"For Cill-Cunna, the Church of my Confessor,  
I take this journey on the road ;  
Aedh Roin shall leave his head with me,  
or I shall leave mine with him."

And then we have the result chronicled thus:—

"The slaughter of the Ulidians with Aedh Roin by  
Aedh Allan, King of Ireland,  
For their Coigny at Cill-Cunna he placed soles to necks."

This last image may be very beautiful and poetic in Erse, but in Anglo-Saxon it requires explanation. Accordingly the meaning is given in a note by the learned Editor, as follows:—"This is an idiom expressing indiscriminate carnage, in which the sole of the foot of one body was placed over against or across the neck or headless trunk of another."<sup>1</sup>

It would be easy to fill whole chapters with extracts of the same kind. Many of them would exhibit the misery of the people. One of them celebrates a battle of which it is specially recorded "Great the carnage of Fir Feini," which is explained to be the "Farmers"<sup>2</sup> or Cultivating Class. Down to the very latest date in these Annals the same spirit is exhibited. The glory of a great Irish Chief who died in Rome so late as 1616, is celebrated in the last pages of the last volume. He is praised as "a warlike, valorous, predatory, enterprising Lord."<sup>3</sup> The truth is, that the Celtic race, like many others, were first lifted

<sup>1</sup> *Annals*, vol. i. p. 331.

<sup>2</sup> *Ibid.* p. 334.

<sup>3</sup> *Ibid.* vol. vi. p. 2375.



above themselves by contact and mixture with other blood. By themselves they had not only failed to advance, but they had fallen back. They had declined from the doctrines and the practice even of their own Brehon Laws. The Colony which they sent out to Scotland in the Sixth Century, rose, and has risen, in exact proportion as it became thoroughly mixed and fused with the Teutonic people. England gained immensely by both the Conquests which were effected over her. Scotland gained quite as much by the more peaceful but equally effective processes through which Saxon and Norman blood established itself even in the remotest Highlands. Ireland has suffered not from the Conquest, but because the higher Rule and Law were so long limited to the Pale. No corner of Europe needed so much that work of complete amalgamation which has given all its strength and power to the British people.

There is, however, one fruitful branch of the national life of Scotland to which I cannot now direct any adequate attention, but to which I must shortly refer in closing. This fruitful branch is that which consists in the life and labours of men of the Celtic race, who have moved out from their native hills and glens, and have given the benefit of high culture, or of a rich and imaginative character, to their country and to the world. Two examples of this kind are impressed upon my memory by circumstances which have left an indelible impression. Many years ago I was speaking to Lord Macaulay on the subject of the Indian Code of Criminal Law, to which, in his own earlier life, he had devoted his learning and his genius. He had occasion to mention the difficulties of the work—the deep questions of Jurisprudence which it involved, and the sources from which he had sought and found assistance. Amongst these he mentioned especially the name of a man of whom at that time I had never heard—one of those who work unseen in our

Civil Services, and to whom the Nation very often is indebted for far more than it ever comes to know. This was Sir John M'Leod, a native of Skye, and one of the smaller Proprietors in that Island. Lord Macaulay was not a man to lavish praise indiscriminately. His mind was critical, and he had of necessity in his own nature a very high standard in judging of intellectual powers. It was therefore with some surprise that I heard Lord Macaulay speak in almost enthusiastic praise of this little-known descendant of the old MacLeods of Skye, as having one of the most profound, sagacious, and philosophic minds he had ever met with.<sup>1</sup> When I came to know Sir John M'Leod as I afterwards did, I found in him the perfect type of a highly cultured son of the Celtic race—modest, refined, dignified,—and speaking English, after some forty years' service abroad, with as strong a Gaelic tone and accent as if he had never left his Estate in Skye.

But I recall another example somewhat different in kind. A curious habit of the Highland people serves to conceal sometimes the part they have played in the highest walks of human enterprise. This is the habit of changing their name—dropping one and assuming another. During the Military Ages they did so perpetually, as we have seen, when they enlisted under some new Chief, and joined some other Clan. In assuming the name of their new associates they kept up that theory and flavour of blood-relationship which in nine cases out of ten had no other foundation whatever. Sir Walter Scott tells us that one of his friends, shooting in the North, had a native guide assigned to him under the name of Gordon. But he recognised the man as having served him in a similar capacity some years before in another place under the name of MacPherson. On asking the man whether he

<sup>1</sup> "The very rare talents" of J. M'Leod is the expression used by Macaulay on another occasion, as quoted in Trevelyan's *Life*, vol. i. p. 413.

was not the same, and whether his name had not then been MacPherson, the composed reply was, "Yes, but that was when I lived on the other side of the hill."<sup>1</sup> It is less known, however, that this habit has always been very general when Highlanders leave the hills and settle in the Low Country. The native Celtic name is dropped, and some Lowland form is adopted which is supposed to be a translation or an equivalent. It was thus that during the scarcities and distress which afflicted the Hebrides during the last years of the last century — about 1792 — a family of the name of MacLeay migrated from the Islet of Ulva, one of the broken fragments of the volcanic Island of Mull, and settled at Blantyre, near Glasgow. The name they took was Livingstone, and their illustrious grandchild was the great African Traveller and Missionary. The purity of the true old Celtic race cannot be safely determined by name or language. Long centuries of foreign dominion, and of intercourse and inter-marriage, leave it very doubtful where we can find, even in the Hebrides, anything like an unmixed descent. But having had the honour of a somewhat intimate friendship with David Livingstone, I always regarded him as an example of the purest Celtic type. Rather below the medium stature, broad, sturdy, and with an evident capacity for great endurance, the special feature which attracted notice was his very dark hazel eye—an eye so dark as almost to suggest a Southern or an Eastern origin. Great self-possession and dignity of manner were blended with a curious mixture of gentleness and determination. Nothing in Nature escaped his observation; and shortly before his death I had a letter from him, written in Central Africa, alluding to a peculiarity of growth in a tree at Inveraray which I had not before noticed, but which he must have noticed in silence when we

<sup>1</sup> *Quarterly Review*, vol. xiv. p. 301.



were together. He was another instance of a man like General Gordon, with a special gift and a special inspiration, which in all human probability would never have been developed if he had been born in the life passed by the old Sub-tenants in Ulva. Burning a little Kelp, digging a few Potatoes, or even herding Cattle in the summer Shealings which looked down on

“all the group of Islets gay  
That guard famed Staffa round,”<sup>1</sup>

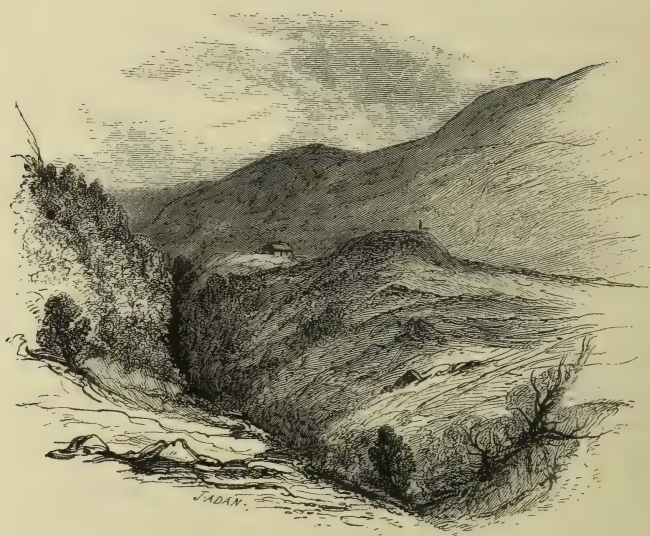
is a life which it is difficult to rank at its proper level as compared with that which he actually led—a life in which he became to millions of the human race the first Pioneer of Civilisation, and the first Harbinger of the Gospel.

The blood and the race which in our own day have produced two such men—one from the class of Chiefs, and another from the class of ordinary Clansmen,—must have the very best stuff of human nature in it. But that blood and race is not confined to those who still retain the Gaelic speech. The larger and the more cultivated part of it is spread over the wide Dominions of the British Crown. It is one of the many sources of our Imperial strength and wealth. The Low Country of Scotland is full of it. The Colonies are full of it. The Indian Services have always been full of it. The Army and the Navy have had abundant reason to be proud of it. It was trusted by The Bruce in the thickest of the Fights he fought. But its whole pride, and aim, and object must continue to be those which that great King promoted—the object of living and working in harmony with the other elements which have built up the Scottish Nation, and in obedience to those Natural and Moral Laws which are the only solid foundation of all Human Institutions.

The progress that Scotland made after union

<sup>1</sup> *The Lord of the Isles.* Fourth Canto, x.

with England, was a progress without a parallel in any of the older Nations of the World. Yet that progress was not due to anything she derived from England in the way of Laws and Institutions. These were all her own. She kept them at the Union, and guarded them, with a noble, because a grateful, care. We were jealous about them, not from any narrow or provincial feeling,—but because our fathers had told us of the noble works done in their days, and in the old times before them. The one great benefit which Scotland did owe to the last and happiest of her many unions, was nothing more than access to larger fields of exercise—to wider openings of Opportunity. She rose to the immense prospects of this new horizon because of the Mind and Character which had been developed under the long discipline, and through the fiery trials, of her own stormy history. The wonderful start she made in the race of intellectual and industrial Life, was due to that history—to the older unions effected during it—to the doctrines it had embodied—to the energies it had developed—to the great principles of Jurisprudence which had worked under the sanctions, and with the authority, of Law. Scotland, therefore, at the Union, did not break with her own Past. On the contrary, she kept it, and cherished it, as the richest contribution she could make to the growth of One Great Empire, and to the Polity of One United Kingdom. Let her keep it still—and always in the same spirit, and with the same great end in view.



BOB ROY'S HOUSE, GLENSHIRE.



## APPENDIX I.

CH. VI. P. 261.

LEASE OF FARM IN MULL, signed by DUNCAN FORBES of Culloden, as Commissioner for John Duke of Argyll and Greenwich, 1739.

Att Stonyhill the Eighteenth day of Aprile one thousand seven hundred and thirty-nine years, And

It is contracted, agreed, and finally ended betwixt the partys following, viz. :—Duncan fforbes of Culloden, Esquire, Lord President of the Session, as having power from his Grace John Duke of Argyle and Greenwich, Heretable Proprietor of the Lands and others after specified, To the effect after mentioned, Conform to Commission dated the twenty-fourth day of March one Thousand Seven hundred and Therty-eight nine years, Registrat in the Books of Session the ffourth day of Aprile and year foresaid, on the one part, and Hugh McLean, Rachell McCarter, Donald McDonald, John McLean, Duncan Beaton, and Archibald McCarter, *all present possessors of the Lands and others under-written*,<sup>1</sup> on the other part, in manner following—That is to say, The said Duncan fforbes, as having power in manner forsaid, *has sett and in Tack and assedation Letton*, Like as He by thir presents, *with and under the conditions and for payment of the Tack Duty aftermentioned*, Setts and in Tack and assedation Letts to them and their heirs and such partners as they shall from time to time assume upon the Death or ffaillure of any of them in manner herein after mentioned<sup>2</sup> (*Secluding all other Assigneys and Subtennants*), All and Hail The one penny half penny Land of Bunessan, with houses, biggings, yeards, parts, pendicles, and universall pertinents thereof *whatsomever used and wont*,<sup>3</sup> lying in the Division of Ross, Island of Mull and

<sup>1</sup> Showing that the new Leaseholders were of the old class of cultivators, probably sub-tenants.

<sup>2</sup> Showing that new Lease regulated, and strictly limited any admission of co-partners in the farm.

<sup>3</sup> Showing admission of “use and wont” in ascertaining facts.

Sheriffdom of Argyle, *by the proportions following, viz. :—To the said Hugh McLean one-half ; To the said Rachael McCarter one-sixth ; To the said Donald McDonald one-twelfth ; To the said John McLean one-twelfth ; To the said Duncan Beaton one-twelfth ; and to the said Archibald McCarter one-twelfth ;*<sup>1</sup> And That *for the space of nineteen full and compleat years*<sup>2</sup> from and after their entry thereto, which is hereby Declared to have been and begun at the term of Whitsunday one Thousand and Seven hundred and Thirty-eight years ; and *so furth to continue in the peaceable possession of the said Lands during the space foresaid ;* Which Tack above written The said Duncan fforbes, as having power in manner foresaid, Binds and obliges the said Duke, his heirs and successors, *to warrand to them and their foresaids att all hands and against all deadly as Law will.*<sup>3</sup> For the which Causes and on the other part the haill forenamed persons Bind and oblige them Conlly. and Sevally., their heirs, Exetrs. and Successors whatsomever, *Thankfully to content and pay to the said Duke and his above written, or to his or their assigneys or Chamberlains in his or their names, the Sum of One Hundred and Seventy-Six pound Scots money*<sup>4</sup> at the term of Martinmas yearly, AND THAT IN FULL SATISFACTION OF ALL HEREZELDS, CASUALITYS, AND OTHER PRESTATIONS AND SERVICES WHATSOMEVER, WHICH ARE HEREBY DISCHARGED,<sup>5</sup> *Except the Services of Tennents for Repairing Harbours, mending Highways, or making or Repairing Milnleads for the generall Benefite of the Island,*<sup>6</sup> with Thirty pound money foresaid of penalty for ilk term's failled and annual rent of the said Tack-duty from and after the term of payment during the not payment : Declaring The first year's Tack-duty was payable at the term of Martinmas one Thousand seven hundred and thirty-eight years, and that the Tack-duty is to be paid yearly at the term of Martinmas for all the years contained in this present Tack : And furder, The haill forenamed persons *Bind and oblige them and their foresaids to possess the Lands and others above written with their own proper stock allenarly,*<sup>7</sup> As also To ffree and Releve the s<sup>d</sup> Duke and his foresaids of all Cesses, Ministers' Stipends, Schoolmasters' Sallarys, and all other burdens imposed or to be imposed upon the lands above mentioned : And it is hereby

<sup>1</sup> Showing great inequality in shares—recognising facts.

<sup>2</sup> Showing fixed limit of time.

<sup>3</sup> The usual clause of Warrandice—conveying security for Exclusive Use.

<sup>4</sup> Showing fixed rent in money.

<sup>5</sup> Showing the terms in which Servitudes were abolished.

<sup>6</sup> Showing the specific services retained, as of public utility.

<sup>7</sup> To prevent Debt, and secure Tenants with sufficient means.

expressly Provided and Declared That in case one year's rent or any part thereof shall remain unpaid when another year's rent becomes due, Then and in that case this present Tack shall *ipso facto* become void and null without any process of Declarator to follow on the said Contravention : And it shall be Leisume and Lawfull to the said Duke and his foresaids to Lett the Lands above written of new as if this present Tack had never been made or granted ; *Providing also that in case any one or more of the Tennents above named shall faill in their Circumstances so as they shall not be able to hold their proportions of the said Lands, Or if upon the Death of any of them there shall not be a fitt person to take up their possession, The remaining tennents shall either take the share or shares of the person or persons so failling amongst them during the residue of this present Tack, Or shall find and assume a fitt Successor or Successors to him or them, for whose answering the prestations Incumbent on them as Succeeding to a Share or Shares of this present Tack the remaining tennents shall be answerable :* In performance of which the haill forenamed persons not only bind and oblige them and their foresds., But also in payment of the above rent at the terms and in manner above mentioned : And both partys Bind and oblige them and their foresaids to perform the premisses *hinc inde* to others, under the penalty of Eighty-five pounds money foresd., to be paid by the party faillier to the party performer or willing to perform by and attour performance : And Consent To the Registration hereof in the Books of Councill and Session or others Competent to have the strength of a Decreet of any of the Judges thereof Interponed thereto, That Letters of Horning on six days' charge and all other Exect<sup>s</sup> needfull may pass hereon in form as effeirs, & yrto. Constitute

Their proct<sup>s</sup>, etc. In witnes whereof their presents, consisting of this and the two preceeding pages of Stamped paper, written by David Marshall, writer in Edinburgh, are Subscribed as follows, viz<sup>t</sup> : By the said Duncan Forbes Att Stoneyhill the said Eighteenth day of Aprile one thousand Seven hundred and thirty-nine years Before these witnesses, Ronald Dunbar, Writer to the Signet, and David Forbes his Serviter, Inserter of the place, Date, Witnesses' names and Designations to the said Duncan Forbes his subscription.

(Signed)

RONALD DUNBAR, *Witness.*  
DAVID FORBES, *Witness.*

(Signed)

DUN. FORBES, *Comr.*



## APPENDIX II.

CH. IX. P. 437.

### PETITION FROM POOR PERSONS IN TYREE FOR AID TO EMIGRATE.

*Unto* Sir JOHN McNEILL. 1847.

The Petition of the undersigned Cottars and small Crofters  
on the Island of Tyree,

*Humbly sheweth,*

That since the making of kelp ceased, and particularly since the failure of the potato crop, the inhabitants of this island have been in a state of great destitution; and, were it not for the benevolence of the proprietor, and the aid afforded by the relief board, they would inevitably have starved. That hitherto they have been employed by the proprietor at drainage and other works, during the winter and spring months, before the land was cropped, and during the summer they were supported by the funds of the relief board. That this latter resource being now at an end, your petitioners' prospects, on looking forward to the ensuing summer, are in the extreme dismal, and the more so, as the only prospect of ultimate relief to which they so fondly cling is denied them—that of emigration—which your petitioners neglected to take advantage of while in their power, probably supposing that the relief funds were to last, or that the potato would be restored. That, to add to their further grievance, your petitioners are led to understand that those averse to emigration from the West Highlands are using every possible means to prevent it, and that statements are made publicly that the poor can be supported by employing them in the improvement of waste land. Those who advocate such are certainly actuated by other motives save that of philanthropy, and display the grossest ignorance as to the resources of the country, particularly as regards this isolated island, where there is no fuel, and not an inch of waste land which the inhabitants

could not drain and trench in a few months. That your petitioners would now most earnestly request, that if possessed of the bowels of compassion, such as were your forefathers, or value the lives of your countrymen, you will not credit the statement of those inimical to our best interest, but examine individually into our circumstances, and the condition of the island, when they have no doubt you will have sufficient proof afforded of the fallacy of such statements, and the injury and cruelty done us by such misrepresentations, which may perhaps be the means of the Duke's withholding his bounty, and depriving us of the power of participating in the enjoyments and comforts, they are from day to day informed, their friends in Canada enjoy to such an extent.

May it therefore please your honour to take the miserable condition of your petitioners into consideration, and use your influence with Her Majesty's Government, or His Grace the Duke of Argyll, to provide for them the means of emigrating; and your petitioners shall ever pray.

(Signed by 136 heads of families representing 825 souls.)

FINIS.





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